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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

RIN 3206–AG55

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting policies on the career-conditional employment system—on career tenure, reinstatement, transfer, and probationary period requirements—previously contained in the former Federal Personnel Manual. Except for several minor adjustments, the previous policies remain intact.

EFFECTIVE DATE: November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Lee Edwards on career tenure, reinstatement and transfer. Raleigh Neville on probation. Both may be reached at 202–606–0830, FAX 202–606–2329, or TDD 202–606–0023.

SUPPLEMENTARY INFORMATION: Career-conditional appointments are permanent appointments to Federal competitive service positions. Under prescribed conditions, employees acquire career tenure, have reinstatement and transfer eligibility, and serve probation. On December 30, 1994 (59 FR 68104), OPM issued interim regulations to adopt policies on career tenure and reinstatement that were in chapter 315 of the former Federal Personnel Manual (FPM). The FPM expired on December 31, 1994, and the interim rules were effective on January 1, 1995.

Earlier, on October 20, 1994 (59 FR 52925), OPM had proposed changes to simplify career tenure and reinstatement, and to incorporate into the regulations the FPM provisions on crediting prior service toward probation. (The probationary provisions were inadvertently omitted from the December 30, 1994, issuance.)

These final regulations adopt the proposed regulations on probation and transfer and the interim regulations on career tenure and reinstatement. OPM is deferring a decision on the proposed revisions to § 315.201 (tenure) and § 315.401 (reinstatement) issued on October 20, 1994 (59 FR 52925).

We received a total of 52 written comments, including letters from 14 agencies, two union locals, and 36 individuals. The major points are discussed below.

Career Tenure

Currently, the interim rule at 5 CFR 315.201(a) requires 3 years of continuous creditable service for an employee to acquire career tenure. OPM proposed to link career tenure instead to completion of the probationary period.

Recently, OPM also proposed to deregulate performance management, including allowing as few as two levels for performance ratings (60 FR 5542). The impact of that change on the reduction in force (RIF) process is unknown at this time although OPM will be reviewing the matter (performance is one of four statutory factors that determine retention standing). The proposed revision of career tenure also would impact the outcome of the RIF process. This was a concern of some who commented on the proposal. Rather than introduce another new variable at a time when agencies may be facing a significant level of RIF activity, OPM is deferring a decision on the career tenure proposal.

OPM received two comments on the December 30, 1994, interim regulation at 5 CFR § 315.201. One was outside the scope of the regulation. The other suggested, and OPM adopted, a revision to § 314.201(b)(3)(x) to clarify that family members reinstated while overseas are to be treated in the same manner as those returning to the United States after breaks in service of more than 30 days. Otherwise, OPM is adopting as final the interim rules on crediting service toward career tenure.

Reinstatement and Transfer Eligibility

Reinstatement eligibility permits a former career or career-conditional employee to be rehired without competing in a competitive civil service examination (although they may have to compete under merit promotion procedures). Career-conditional employees with veterans' preference and career employees have unlimited reinstatement eligibility.

A career-conditional employee who is not a preference eligible has a 3-year limit on reinstatement eligibility (which may be extended under certain circumstance). OPM proposed to drop this time limit but is deferring action on the proposal. Thus, the 3-year limit on reinstatement eligibility, as provided in the interim regulation, remains in effect for career-conditional employees who are not preference eligibles. The reinstatement authority in § 31.5.401(a) is clarified and a reference to ACTION in § 315.401(c)(13) is changed to the Corporation for National and Community Service to reflect the current organizational title. Otherwise, OPM is adopting as final the interim rule on reinstatement at § 315.401.

Appointment by transfer between agencies, § 314.501, is clarified to state that transfer must be without a break of a workday. A clarification was added to § 314.502 to address the movement of a career employee from a position required by law to be filled on a permanent basis. Otherwise, the proposed rule on transfer is adopted without change.

Probationary Period

OPM proposed to clarify basic requirements of the probationary period for new appointments and for new supervisors and managers. Six commenters addressed specific aspects of probation, but most were outside the scope of OPM's proposals and are not dealt with here.

In reviewing the comments, however, we noted the proposed regulation had omitted students serving under the Schedule B Student Career Experience Program who have always been subject to probation when noncompetively converted to a career or career-conditional appointment under Executive Order 12015. We added these conversions to § 314.801. We changed a reference to ACTION in § 315.802(c) to the Corporation for National and Community Service. We also added a new § 315.906(e), as one commenter suggested, to address the crediting of temporary service in a supervisory or managerial position that occurs prior to probation. Otherwise, OPM is adopting as proposed the provisions dealing with probation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal employees and agencies.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 315

Government employees.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR part 315, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., page 218, unless otherwise noted.

Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652.

Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104.

Sec. 315.603 also issued under 5 U.S.C. 8151.

Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp., p. 111.

Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp., p. 303.

Sec. 315.607 also issued under 22 U.S.C. 2506.

Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp., p. 293.

Sec. 315.610 also issued under 5 U.S.C. 3304(d).

Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987 Comp., p. 229.

Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp., p. 264.

2. The interim rule amending § 315.201 published on December 30, 1994 (59 FR 68104) is adopted as final, with the following change; § 315.201(b)(3)(x) is revised to read as follows:

§ 315.201 Service requirement for career tenure.

* * * * *

(b) * * *

(3) * * *

(x) Breaks that occur when a career-conditional employee leaves Federal employment to accompany a spouse or parent (if the employee is their unmarried child under 21 years of age) who is a member of the Armed Forces or a Federal civilian employee on official assignment to an overseas post of duty, provided the employee's separation from employment occurs no more than 90 calendar days prior to going overseas and reinstatement occurs while overseas or within 180 calendar days of return to the United States. Overseas posts of duty are duty locations outside the 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

* * * * *

3. The interim rule amending § 315.401 published on December 30, 1994 (59 FR 68104) is adopted as final, with the following change; § 315.401 (a) and (c)(13) are revised to read as follows:

§ 315.401 Reinstatement.

(a) *Agency authority.* Subject to part 335 of this chapter and paragraph (b) of this section, an agency may appoint by reinstatement to a competitive service position a person who previously was employed under career or career-conditional appointment (or equivalent).

(b) * * *

(c) * * *

(13) Volunteer service and training required prior to actual enrollment as a volunteer with Peace Corps, VISTA, and other programs of the Corporation for National and Community Service if it begins within the period the person is eligible for reinstatement; and

* * * * *

4. Sections 315.501 and 315.502 are revised, to read as follows:

§ 315.501 Transfer.

Subject to part 335 of this chapter, an agency may appoint by transfer to a competitive service position, without a break in service of a single workday, a current career or career-conditional employee of another agency.

§ 315.502 Tenure on transfer.

(a) *General rule.* Except as provided in paragraph (b) of this section, a career employee who transfers remains a career employee and a career-conditional employee who transfers remains a career-conditional employee.

(b) *Exceptions.* (1) A career-conditional employee who transfers to a position required by law to be filled on a permanent basis becomes a career employee.

(2) A career employee who transfers from a position required by law to be filled on a permanent basis becomes a career-conditional employee unless he or she has completed the service requirement for career tenure.

5. In § 315.801, in paragraph (a)(5), the last word ''or'' is removed; in paragraph (a)(6), the period at the end of the sentence is removed and a semicolon is added; in paragraph (a)(7), the period at the end of the sentence is removed and a semicolon is added; and paragraphs (a)(8), (a)(9), and (d) are added, to read as follows:

§ 315.801 Probationary period; when required.

(a) * * *

(8) Was appointed under § 315.608 and Executive Order 12721 as a family member formerly stationed overseas; or

(9) Had employment converted in accordance with Executive Order 12015 from an appointment in the Student Career Experience Program under § 213.3202(b) of this chapter.

* * * * *

(d) Upon noncompetitive appointment to the competitive service under the Postal Reorganization Act (39 U.S.C. 101 et seq.), an employee of the Postal Career Service (including substitute and part-time flexible) who has not completed 1 year of Postal service, must serve the remainder of a 1-year probationary period in the new agency.

6. Section 315.802 is revised to read as follows:

§ 315.802 Length of probationary period; crediting service.

(a) The probationary period required by § 315.801 is 1 year and may not be extended.

(b) Prior Federal civilian service (including nonappropriated fund service) counts toward completion of probation when the prior service:

(1) Is in the same agency, e.g., Department of the Army;

(2) Is in the same line of work (determined by the employee's actual duties and responsibilities); and

(3) Contains or is followed by no more than a single break in service that does not exceed 30 calendar days.

(c) Periods of absence while in a pay status count toward completion of probation. Absence in nonpay status while on the rolls (other than for compensable injury or military duty) is creditable up to a total of 22 workdays. Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service. Nonpay time in excess of 22 workdays extends the probationary period by an equal amount. An employee serving probation who leaves Federal service to become a volunteer with the Peace Corps or the Corporation for National and Community Service serves the remainder of the probationary period upon reinstatement provided the employee is reinstated within 90 days of termination of service as a volunteer or training for such service.

(d) The probationary period for part-time employees is computed on the basis of calendar time, in the same manner as for full-time employees. For intermittent employees, i.e., those who do not have regularly scheduled tours of duty, each day or part of a day in pay status counts as 1 day of credit toward the 260 days in a pay status required for completion of probation. (However, the probationary period cannot be completed in less than 1 year of calendar time.)

7. In § 315.804, the existing text is designated as paragraph (a) and paragraph (b) is added, to read as follows:

§ 315.804 Termination of probationers for unsatisfactory performance or conduct.

* * * * *

(b) Probation ends when the employee completes his or her scheduled tour of duty on the day before the anniversary date of the employee's appointment. For example, when the last workday is a Friday and the anniversary date is the following Monday, the probationer must be separated before the end of the tour of duty on Friday since Friday would be the last day the employee actually has to demonstrate fitness for further employment.

8. Section 315.902 is revised to read as follows:

§ 315.902 Definitions.

In this subpart *supervisory position* and *managerial position* have the meaning given them by the General Schedule Supervisory Guide.

9. In § 315.906, paragraph (b) is revised and new paragraphs (c), (d), and (e) are added, to read as follows:

§ 315.906 Crediting service toward completion of the probationary period.

* * * * *

(b) Service on detail, temporary promotion, or reassignment to another supervisory or managerial position while serving probation is creditable toward completion of probation. Service in a nonsupervisory or nonmanagerial position is not creditable.

(c) Absence in nonpay status while on the rolls (other than for compensable injury or military duty) is creditable up to a total of 22 workdays. Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service. Nonpay time in excess of 22 workdays extends the probationary period by an equal amount.

(d) Service during a probationary period from which an employee was separated or demoted for performance or conduct reasons does not count toward completion of probation required under a subsequent appointment. In other situations in which an employee does not complete probation, service is creditable as determined by agency policy.

(e) Temporary service in a supervisory or managerial position under temporary appointment, promotion, or reassignment *prior to probation* is creditable as determined by agency policy. Prior service under a detail may be credited only when a detail to a supervisory or managerial position is made permanent without a break in service.

10. In § 315.907, paragraph (b) is revised to read as follows:

§ 315.907 Failure to complete the probationary period.

* * * * *

(b) A nonsupervisory or nonmanagerial employee who is demoted into a position in which probation under § 315.904 is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned to a position at the same grade and pay as the position in which he or she was serving probation. The employee is eligible for repromotion in accordance with agency promotion policy.

[FR Doc. 95–25582 Filed 10–13–95; 8:45 am]
BILLING CODE 6325–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 70, and 72

RIN 3150–AF27

Physical Security Plan Format Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to eliminate the requirement for applicants for power reactor, Category I fuel cycle, and spent fuel storage 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.

EFFECTIVE DATE: November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Carrie Brown, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–8092.

SUPPLEMENTARY INFORMATION: Under current NRC regulations, applicants for power reactor, Category I fuel cycle, and spent fuel storage licenses must submit physical security plans in two parts. Applicants for power reactor, Category I fuel cycle, and spent fuel storage 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. Existing licensees with physical security plans approved before the effective date of the final rule will not be required to adopt the new format. These licensees, however, may 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 final rule will not change any of the substantive content currently required in the physical security plans.

The benefit of this rulemaking is 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. NRC encourages applicants or licensees to follow such guidance in order to allow for a quicker and more efficient review of the plans.

Summary of Public Comments

The comment period for the proposed rule published April 17, 1995 (60 FR 19170), closed on May 17, 1995. Two comments were received. The following comment summary and resolution address these comments.

Comment. This commenter complimented NRC for eliminating unnecessary requirements and commented on one statement, in the ''Supplementary Information'' section, that says licensees may ''* * * 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 plan.'' The commenter discussed a Generic Letter that is being developed by the Office of Nuclear Reactor Regulation entitled, ''Standardization of Security Program Reviews,'' and encouraged the issuance of the draft Generic Letter for comment as soon as possible.

Response. The Generic Letter was published in the Federal Register on June 14, 1995 (60 FR 31326), with a 30-day comment period.

Comment. This commenter noted that a similar requirement to submit physical security plans in two parts in 10 CFR 72.180 was not addressed and indicated that it should be included.

Response. NRC agrees with the comment and 10 CFR 72.180 has been amended.

Environmental Impact: Categorical Exclusion

NRC has determined that this final 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 final 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, 0011, and 0132.

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 will require no additional burden on current licensees.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. This final rule affects applicants for power reactor, Category I fuel cycle, and spent fuel storage licenses. Because these licensees are not classified as small entities, as defined by NRC's size standards (10 CFR 2.810), the Commission finds that this final rule does not have a significant economic impact on a substantial number of small entities.

Backfit Analysis

NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required, because this amendment does not involve any provisions that 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.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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. 552 and 553, NRC is adopting the following amendments to 10 CFR Parts 50, 70, and 72.

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, 83 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 Part 73 (and Part 11 of this chapter, 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, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); 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 (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.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

5. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

6. Section 72.180 is revised to read as follows:

§ 72.180 Physical security plan.

The licensee shall establish a detailed plan for security measures for physical protection. The licensee shall retain a copy of the current plan as a record until the Commission terminates the license for which the procedures were developed and, if any portion of the plan is superseded, retain the superseded material for 3 years after each change. This plan must demonstrate how the applicant plans to comply with the applicable requirements of Part 73 of this chapter and during transportation to and from the proposed ISFSI or MRS and must include the design for physical protection, the licensee's safeguards contingency plan, and the guard training plan. The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

Dated at Rockville, Maryland, this 3rd day of October, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95–25542 Filed 10–13–95; 8:45 am]

BILLING CODE 7590–01–P

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10 CFR Part 73

Information Meetings Regarding Protection Against Malevolent Use of Vehicles at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of closed meetings.

SUMMARY: The Nuclear Regulatory Commission (NRC) will conduct closed meetings to provide information it believes would be of interest to nuclear power reactor licensees required to implement a rule published in the Federal Register on August 1, 1994, associated with protection against the malevolent use of vehicles at nuclear power plants. The NRC Office of Nuclear Reactor Regulation will conduct half-day closed workshops for the licensees in NRC Regions II, III, and IV, and at NRC Headquarters for Region I licensees to discuss these issues during the week of October 22, 1995. These workshops are closed to members of the public, or other parties, because Safeguards Information will be discussed. An unclassified summary of the meetings will be prepared by NRC and will be available upon request.

DATES: The closed meetings will be held the week of October 22, 1995. Register by October 16, 1995.

ADDRESSES: NRC Headquarters for Region I licensees and NRC Offices in Regions II, III, and IV.

FOR FURTHER INFORMATION CONTACT: Francis I. Young, United States Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555–0001, Telephone (301) 415–3207.

SUPPLEMENTARY INFORMATION: The auditorium at NRC Headquarters and the regional conference rooms can accommodate up to three representatives from each facility in that region. It is requested that each licensee planning to send representatives to the workshops provide the names of the attendees to its NRC project manager within the Office of Nuclear Reactor Regulation by October 16, 1995. If a licensee desires to send more than three representatives, it may contact the Safeguards Branch (Elaine Koup at 301–415–2932) after October 18, 1995, for additional spaces, if available.

Dated at Rockville, Maryland, this 6th day of October, 1995.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–25541 Filed 10–13–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–19–AD; Amendment 39–9399; AD 95–21–12]

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, that requires initial and repetitive inspections of the main rotor (M/R) blade upper and lower surfaces for bulging. This amendment is prompted by two reported incidents in which a balance weight became detached from inside the M/R blade structure and migrated toward the tip of the M/R blade. The actions specified by this AD are intended to detect movement of a balance weight and to prevent severe vibrations and a subsequent precautionary landing.

DATES: Effective November 20, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 20, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas

75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters was published in the Federal Register on February 13, 1995 (60 FR 8205). That action proposed to require initial and repetitive inspections of the M/R blade upper and lower surfaces for bulging.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except for editorial changes and adding explanatory Note 1, relating to the scope of the applicability statement when modifications, alterations, or repairs have been made in the area subject to the requirements of the AD. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 125 helicopters of U.S. registry will be affected by this AD, that it will take approximately one-half work hour per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,750.

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.

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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 95–21–12 Eurocopter Deutschland GmbH (ECD): Amendment 39–9399. Docket No. 94–SW–19–AD.

Applicability: Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters 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 helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To detect movement of a balance weight and to prevent severe vibrations and a subsequent precautionary landing, accomplish the following:

(a) Within the next 5 hours time-in-service (TIS) after the effective date of this AD, and thereafter, at intervals not to exceed 50 hours TIS, visually inspect the upper and lower surfaces of the main rotor blades (blades) in the area of the outboard lead balance weight in the marked inspection area for signs of bulging, in accordance with Paragraph 2.A. of the Accomplishment Instructions of Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin ASB–MBB–BK 117–10–108, Revision 1, dated October 14, 1994.

(b) If a marked inspection area is not visible, mark the area in accordance with Paragraph 2.A. of the Accomplishment Instructions of Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin ASB–MBB–BK 117–10–108, Revision 1, dated October 14, 1994, and then inspect in accordance with paragraph (a) of this AD.

(c) If bulging exceeds 1mm (0.040 inch) in height, remove the blade and replace it with an airworthy blade in accordance with the applicable maintenance manual.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

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

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

(f) The inspection and replacement, if necessary, shall be done in accordance with Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin ASB–MBB–BK 117–10–108, Revision 1, dated October 14, 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on November 20, 1995.

Issued in Fort Worth, Texas, on October 4, 1995.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–25522 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Phenylbutazone Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for the use of a generic phenylbutazone injection in horses as an anti-inflammatory agent.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Ter., P.O. Box 6457, St. Joseph, MO 64506–0457, is the sponsor of ANADA 200–126 which provides for the use of generic Phenylbutazone 20% Injection (200 milligrams (mg) of phenylbutazone per milliliter (mL) of solution) for the relief of inflammatory conditions associated with the musculoskeletal system in horses.

Approval of ANADA 200–126 for Phoenix Scientific's Phenylbutazone 20% Injection is as a generic copy of Coopers Animal Health's Butazolidin® (200 mg of phenylbutazone per mL) which is covered by NADA 011–575. The ANADA is approved as of September 1, 1995, and the regulations are amended in 21 CFR 522.1720 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, the regulation contains an outdated footnote and superscript references citing the National Academy of Science/National Research Council (NAS/NRC) status of these products. The Generic Animal Drug and Patent Term Restoration Act of 1988 changed that status. The NAS/NRC footnote references are removed at this time.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.1720 is amended by removing the footnote in paragraphs (c) and (d) and by revising paragraph (b)(2) to read as follows:

§ 522.1720 Phenylbutazone injection.

* * * * *

(b) * * *

(2) Approval for use of the 200 milligrams per milliliter drug in horses: See sponsor Nos. 000010, 000402, 000864, and 059130 in § 510.600(c) of this chapter.

* * * * *

Dated: October 2, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–25503 Filed 10–13–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Syntex Animal Health, Division of Syntex Agribusiness, Inc., to Hoffman-La Roche, Inc.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1646.

SUPPLEMENTARY INFORMATION: Syntex Animal Health, Division of Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, has informed FDA that it has transferred the ownership of, and all rights and interests in, approved NADA 141–025 (Laidlomycin) to Hoffman-La Roche, Inc., Nutley, NJ 07110–1199.

Accordingly, the agency is amending the regulations in 21 CFR 558.305 to reflect the change of sponsor.

List of Subject in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.305 [Amended]

2. Section 558.305 *Laidlomycin propionate potassium* is amended in paragraph (a) by removing ''000033'' and adding in its place ''000004''.

Dated: October 4, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–25504 Filed 10–13–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 602

[TD 8624]

RIN 1545–AT87

Reporting of Nonpayroll Withheld Tax Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to

the reporting of nonpayroll withheld income taxes under section 6011 of the Internal Revenue Code. The temporary regulations remove the requirement that a person file Form 945, Annual Return of Withheld Federal Income Tax, for each calendar year, whether or not the person is required to withhold the taxes reported on Form 945 in a particular calendar year. The temporary regulations require that a person file Form 945 only for a calendar year in which the person is required to withhold taxes required to be reported on Form 945. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, 202–622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1413. Responses to this collection of information are required to monitor compliance with the federal tax laws related to the reporting and deposit of nonpayroll withheld taxes.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the Federal Register.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On December 23, 1993, the IRS published final regulations (TD 8504) in the Federal Register (58 FR 68033) relating to both the reporting and depositing of Federal employment taxes. Those regulations simplify reporting requirements by removing all ''nonpayroll'' withheld taxes from reporting on Form 941, Employer's Quarterly Federal Tax Return (or Form 941E, Quarterly Return of Withheld Federal Income Tax and Medicare Tax) and requiring those taxes to be reported on Form 945. Those final regulations were effective December 23, 1993.

Section 31.6011(a)–4(b) of those regulations provides that every person required to make a return of income tax withheld from nonpayroll payments for calendar year 1994 must make a return for calendar year 1994 and for each subsequent calendar year (whether or not any such tax is required to be withheld that year) until a final return is made in accordance with § 31.6011(a)–6. In addition, every person not required to make a return of income tax withheld from nonpayroll payments for calendar year 1994 must make a return for the first calendar year after 1994 in which the person is required to withhold the tax and for each subsequent calendar year until a final return is made in accordance with § 31.6011(a)–6.

In the preamble to TD 8504, the IRS stated that it welcomed and would consider comments from the public regarding the requirement to continue filing Form 945 annually, regardless of liability, until a final return is filed in accordance with § 31.6011(a)–6. Several commentators responded to that invitation, all opposing the requirement to file a return for a calendar year for which there is no liability. As a result, the IRS has reconsidered the specific requirement.

Explanation of Provisions

These temporary regulations remove the requirement that, once a person files an annual Form 945, the person must file a Form 945 every subsequent year until the person files a final return. Under these temporary regulations, a person must file a Form 945 only for a calendar year in which the person is required to withhold Federal income tax from nonpayroll payments.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 602 are amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by adding an entry in numerical order to read as follows:

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

Section 31.6011(a)–4T also issued under 26 U.S.C. 6011. * * *

Par 2. Section 31.6011(a)–4 is amended by revising paragraph (b) to read as follows:

§ 31.6011(a)–4 Returns of income tax withheld.

* * * * *

(b) [Reserved] For further guidance see § 31.6011(a)–4T(b).

* * * * *

Par. 3. Section 31.6011(a)–4T is added to read as follows:

§ 31.6011(a)–4T Returns of income tax withheld (temporary).

(a) [Reserved] For further guidance see § 31.6011(a)–4(a).

(b) *Withheld from nonpayroll payments.* Every person required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for calendar year 1994 and for any subsequent calendar year in which any such tax is required to be withheld until the person makes a final return in accordance with § 31.6011(a)–6. Every person not required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for the first calendar year after 1994 in which the person is required to withhold such tax and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with § 31.6011(a)–6. Form 945, Annual Return of Withheld Federal Income Tax, is the form prescribed for making the return required under this paragraph (b). Nonpayroll payments are—

(1) Certain gambling winnings subject to withholding under section 3402(q);

(2) Retirement pay for services in the Armed Forces of the United States subject to withholding under section 3402;

(3) Certain annuities as described in section 3402(o)(1)(B);

(4) Pensions, annuities, IRAs, and certain other deferred income subject to withholding under section 3405; and

(5) Reportable payments subject to backup withholding under section 3406.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. Section 602.101, paragraph (c) is amended in the table by adding the entry ''31.6011(a)–4T . . . . 1545–1413'' in numerical order.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: September 22, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 95–25314 Filed 10–13–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–126–FOR; State Program Amendment No. 95–9]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed additions to the Indiana Administrative Code [IAC] rules at 310 IAC 12 pertaining to definition of terms used in the Indiana Program. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations and to provide additional safeguards.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204, Telephone (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated May 11, 1995 (Administrative Record No. IND–1469), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. Indiana proposed to add definitions at 310 IAC 12–0.5–2, 12–0.5–14, 12–0.5–57, 12–0.5–95, 12–0.5–99, and 12–0.5–123. These definitions pertain to acid drainage; augmented seeding, fertilization, or irrigation; high level management; public building; randomly located; and support facility, respectively.

OSM announced receipt of the proposed amendment in the May 30, 1995, Federal Register (59 FR 28073), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 29, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

A. Revisions to Indiana Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

State regulation	Subject	Federal counterpart
310 IAC 12–0.5–2	Definition of Acid Drainage	30 CFR 701.5
310 IAC 12–0.5–95	Definition of Public Building	30 CFR 761.5

Because the above proposed definitions are identical in meaning to the corresponding Federal definitions, the Director finds that Indiana's proposed rules are no less effective than the Federal rules.

B. Revisions to Indiana's Regulations With No Corresponding Federal Regulations

1. 310 IAC 12–0.5–14 Augmented Seeding, Fertilization, or Irrigation. Indiana proposed to define ''augmented seeding, fertilization, or irrigation'' as seeding, fertilizing, or irrigating in excess of normal agronomic practices within the region.

OSM amended the Federal regulations at 30 CFR 816.116(c) and 817.116(c) on September 7, 1988 (53 FR 34636). These regulations provide for regulatory authority approval of ''selective husbandry practices.'' OSM, in discussing the approval of selective husbandry practices, stated ''these approved practices were allowed to occur during the liability period without restarting the five- or ten-year period responsibility for successful revegetation provided the practice was a 'normal conservation practice' and was not *augmented seeding, fertilizing, irrigation, or other work*.'' (Emphasis added.)

OSM uses the above emphasized language in its regulations at 30 CFR 816.116(c) and 817.116(c) to make a distinction between normal and augmented husbandry practices. Indiana's proposed definition makes a similar distinction. Therefore, the Director finds the proposed definition at 310 IAC 12–0.5–14 is no less effective than the Federal regulation provisions pertaining to normal husbandry practices.

2. 310 IAC 12–0.5–57 High Level Management. Indiana proposed a definition for ''high level management'' as it relates to agronomic practices. The definition includes use of cropping systems that help maintain the land; the control of erosion through conservation and water management practices; use of soil tests for determining proper lime and fertilizer application; use of crop residue for protection of soil; use of conservation tillage practices where needed; use of crop varieties that are adapted to the climate and the soil of the region; use of currently accepted management techniques for controlling weeds, plant diseases, and harmful insects for the region; and use of surface or subsurface drainage systems for wet areas.

The term ''high level management'' is used in both the Indiana regulations and the Federal regulations in the permit application content requirements for information pertaining to the productivity of prime farmlands prior to mining. The term, as used, does not alter the reclamation or productivity requirements for lands to be mined. Although OSM chose not to include a definition of high level management in its regulations, the Indiana definition includes all of the general requirements published by the U.S. Natural Resources Conservation Service in its National Soils Handbook and additional management practices to aid permit evaluators in reviewing the information submitted with a mining permit. Therefore, the Director finds the proposed definition at 310 IAC 12–0.5–57 is not inconsistent with the requirements of the Federal regulations at 30 CFR 785.17(c).

3. 310 IAC 12–0.5–99 Randomly Located. Indiana proposed to define ''randomly located'' as the selection of a location that is statistically independent of all previous and future location selections.

The term ''randomly located'' is used by Indiana in its revegetation standard regulations to denote the selection of sampling locations. OSM's regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) allow each State to establish its own testing procedures within certain general guidelines. At a minimum, OSM would require that any testing procedure selected by the State be based on valid statistical methods. The proposed definition requires that all locations selected must be statistically independent of all others. Any method used to actually locate positions in the field would have to meet the definition. Therefore, the Director finds the definition is consistent with and no less effective than 30 CFR 816.116(a)(1) and 817.116(a)(1).

4. 310 IAC 12–0.5–123 Support Facility. Indiana proposed a definition of ''support facility'' that contains the following provisions. Subsection (a) relates a support facility to the activities identified in 310 IAC 12–0.5–125(1), which defines surface coal mining operations, and the area upon which the facility is located. Subsection (b) specifies that ''resulting from or incidental to'' connotes an element of proximity to the activity. Subsection (c) provides a list of support facilities which includes mine buildings, bath houses, coal loading and storage facilities, coal crushing and sizing facilities, equipment and storage facilities, fan buildings, hoist buildings, sheds, shops, and other buildings, facilities used to treat and store water for mine consumption, and specific transportation facilities.

On November 22, 1988, OSM removed its definition of ''support facilities'' from 30 CFR 701.5 (53 FR 47378). Indiana has chosen to provide additional clarification and guidance to its mine operators by adding one to its program. The Director acknowledges that the proposed definition will supplement Indiana's regulations at 310 IAC 12–5–71 pertaining to support facilities and utility installations. OSM noted in the November 22, 1988, Federal Register that some State programs contain a definition of support facilities, and the Director did not require these States to remove them.

> While only two approved State programs contain a definition of support facilities, rarely have objections been raised to OSMRE concerning the administration of State programs on this issue.

Based on the above discussion, the Director finds the proposed definition at 310 IAC 12–0.5–123 is not inconsistent with the requirements of SMCRA and the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. In a letter dated June 19, 1995 (Administrative Record No. IND–1490), the U.S. Bureau of Mines commented that the definition of acid drainage may not include that drainage that would emanate from the surface effects of underground mines, either active or abandoned, or from coal processing or loading facilities. The definition as proposed is the same as the Federal definition in 30 CFR 701.5. Both the Federal and Indiana definitions utilize the term ''surface coal mining and reclamation operation'' which under both programs include surface mines and facilities and the surface effects of underground mines. Therefore the concerns raised by the U.S. Bureau of Mines are adequately addressed by the Indiana program. The proposed Indiana definition of acid drainage will not exempt drainage from any facility or operation regulated under SMCRA.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On May 18, 1995, OSM solicited EPA's concurrence with the proposed amendment (Administrative Record No. IND–1482). On June 15, 1995, EPA gave its written concurrence, without comment on all of the definitions except high level management (Administrative Record No. IND–1489). EPA expressed concern with the possible impacts of the language within the definition which refers to ''drainage wet areas.'' When OSM explained that the definition was used in reference to the management of unmined lands for which only information was required under the Indiana Program, EPA issued a concurrence for the definition (Administrative Record No. IND–1507).

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No comments were received from either agency.

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment as submitted by Indiana on May 11, 1995.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Indiana program, the Director will recognize only the statutes, regulations, and other materials approved by OSM, together with any consistent implementing policies, directives, and other materials, and will require the enforcement by Indiana of only such provisions.

VI. 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, to the extent allowed by law, 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 1255) and 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 CFR 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(20(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 which is the subject of this rule is based upon corresponding 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 corresponding Federal regulations.

List of Subjects in 30 CFR 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 3, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding paragraph (lll) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(111) The following rules, as submitted to OSM on May 11, 1995, are approved effective October 16, 1995.

310 IAC 12–0.5–2—Definition of acid drainage.

310 IAC 12–0.5–15—Definition of augmented seeding, fertilization, or irrigation.

310 IAC 12–0.5–57—Definition of high level management.

310 IAC 12–0.5–95—Definition of public building.

310 IAC 12–0.5–99—Definition of randomly located.

310 IAC 12–0.5–123—Definition of support facility.

[FR Doc. 95–25555 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–05–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1210

RIN 3095–AA43

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

AGENCY: National Archives and Records Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: In response to the requirement of the Office of Management and Budget (OMB) for agencies to publish regulations incorporating the revised OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,'' the National Archives and Records Administration (NARA) is herewith adopting that circular, with certain modifications, in regulations which apply to grants administered by the National Historical Publications and Records Commission (NHPRC). The regulation will provide standards for obtaining consistency and uniformity in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations. This regulation will not address requirements related to construction programs since the NHPRC does not make construction grants.

DATES: This interim rule is effective November 15, 1995.

Comments must be received by December 15, 1995.

ADDRESSES: Comments should be sent to Director, Policy and Planning Division, National Archives and Records Administration (PIRM–POL), 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to (301) 713–7270.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard at (301) 713–6730.

SUPPLEMENTARY INFORMATION:

Background

This interim final rule incorporates and reflects the provisions of the Office of Management and Budget (OMB) issuance of revised OMB Circular A–110 at 58 FR 62992 in a new 36 CFR part 1210. OMB Circular A–110 was originally issued by OMB in 1976 with minor revisions made in 1987. OMB published a notice in the Federal Register (57 FR 39018) on August 27, 1992, requesting comments on proposed revisions to OMB Circular A–110. Interested parties were invited to submit comments. OMB received over 200 comments from Federal agencies, non-profit organizations, professional organizations and others. All comments were considered in a final revision of Circular A–110 which was issued for governmentwide use in the Federal Register on November 29, 1993. Consequently, this rule is published as an interim final rule because of the previous request for comment process used in the development of the Circular, the large number of comments already received and considered by OMB and the Federal agencies, and the limited flexibility to revise this rule provided by OMB.

National Historical Publications and Records Commission Grant Program

The purpose of the National Historical Publications and Records Commission (NHPRC) is to promote the preservation and use of historically significant documents. The Archivist of the United States awards grants recommended by the NHPRC. Grants are made for the preparation (compiling, editing and publishing) of printed, microforms, and electronic publications; to nonprofit presses to help defray publication costs of Commission-supported editions; and for activities relating to the preservation, arrangement and description of historical records. Educational programs sponsored by the NHPRC include an institute to provide training in documentary editing and fellowships in the fields of documentary editing and archival administration. Since NHPRC grants can be awarded to institutions of higher education, hospitals, and other non-profit organizations to which the revised OMB Circular A–110 applies, NARA is including provisions of the circular, with some modifications, as a part in their regulations. The Catalog of Federal Domestic Assistance (CFDA) number for this program is 89.003.

Modifications to ''Common Rule'' Provisions of OMB Circular A–110

In certain sections of the Circular, alternative requirements are offered, depending on the Federal awarding agency's requirements. Where appropriate, NARA has specified the alternative to be followed. In § 1210.25(a), for example, the regulation specifies that the budget plan shall include both the Federal and non-Federal share, an NHPRC requirement; the Circular provided that the budget plan may include either the Federal and non-Federal share, or only the Federal share, depending on the agency's requirements. In § 1210.51(b), NARA has specified the reporting frequency that is already required in 36 CFR 1206.78 instead of listing all of the common rule allowed reporting frequencies. In § 1210.52(a)(1)(ii), we have specified that the report shall be on a cash basis instead of the alternative accrual basis.

Because the NHPRC does not make construction grants, NARA has not included in this part Circular A–110 requirements related to construction programs. Although we recognize that a ''common rule'' or uniform regulation issued by all grant-making agencies facilitates compliance, we believe that this benefit is offset by the potential for confusion over regulatory provisions that are not applicable to the grant program. We specifically invite comments on this point.

Other

This rule is being issued as an interim final rule under the Administrative Procedures Act which permits an agency to issue a final rule without a prior notice of proposed rulemaking (NPRM) if the agency finds that issuing an NPRM would be impractical, unnecessary, and contrary to the public interest. As stated in the background paragraphs of the supplementary information section of the preamble, this rule is based on the revised OMB Circular A–110, that was developed by an interagency task force and received extensive public comment. The revised Circular specifies that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein shall adopt the language in the Circular unless other provisions are required by Federal statute or exceptions or deviations are approved by OMB. This publication of an interim final rule solicits comments on these specific grounds, that is whether there are any reasons to deviate from the language of the OMB Circular that are required by Federal statute or of sufficient import to warrant soliciting OMB's approval for a change. It should be noted that because the interim final rule is required to adopt the provisions of the Circular to the maximum extent possible, even word-for-word if possible as is done here, a Notice of Proposed Rulemaking would be inappropriate and would not allow the public to make comments that could have a significant impact on the rule. This would make such an effort impractical, unnecessary, and contrary to public interest.

This rule is a significant regulatory action for purposes of Executive Order

12866 of September 30, 1993, and has been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1210

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, NARA is adding Part 1210 to Subchapter A of Title 36 of the Code of Federal Regulations to read as follows:

PART 1210—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

Subpart A—General

Sec.
1210.1 Purpose.
1210.2 Definitions.
1210.3 Effect on other issuances.
1210.4 Deviations.
1210.5 Subawards.

Subpart B—Pre-Award Requirements

1210.10 Purpose.
1210.11 Pre-award policies.
1210.12 Forms for applying for Federal assistance.
1210.13 Debarment and suspension.
1210.14 Special award conditions.
1210.15 Metric system of measurement.
1210.16 Resource Conservation and Recovery Act.
1210.17 Certifications and representations.

Subpart C—Post-Award Requirements

Financial and Program Management
1210.20 Purpose of financial and program management.
1210.21 Standards for financial management systems.
1210.22 Payment.
1210.23 Cost sharing or matching.
1210.24 Program income.
1210.25 Revision of budget and program plans.
1210.26 Non-Federal audits.
1210.27 Allowable costs.
1210.28 Period of availability of funds.
Property Standards
1210.30 Purpose of property standards.
1210.31 Insurance coverage.
1210.32 Real property.
1210.33 Federally-owned and exempt property.
1210.34 Equipment.
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Authority: 44 U.S.C. 2104(a); 44 U.S.C. 2501–2506.

Subpart A—General

§ 1210.1 Purpose.

This part establishes uniform administrative requirements for NHPRC grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. Non-profit organizations that implement NHPRC programs for the States are also subject to State requirements.

§ 1210.2 Definitions.

(a) *Accrued expenditures* means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and,

(3) Other amounts becoming owed under programs for which no current services or performance is required.

(b) *Accrued income* means the sum of:

(1) Earnings during a given period from

(i) Services performed by the recipient, and

(ii) Goods and other tangible property delivered to purchasers, and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

(c) *Acquisition cost of equipment* means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

(d) *Advance* means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

(e) *Award* means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the NHPRC to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

(f) *Cash contributions* means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

(g) *Closeout* means the process by which the NHPRC determines that all applicable administrative actions and all required work of the award have been completed by the recipient and the NHPRC.

(h) *Contract* means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

(i) *Cost sharing or matching* means that portion of project or program costs not borne by the NHPRC.

(j) *Date of completion* means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NHPRC sponsorship ends.

(k) *Disallowed costs* means those charges to an award that the NHPRC determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

(l) *Equipment* means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

(m) *Excess property* means property under the control of the NHPRC that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

(n) *Exempt property* means tangible personal property acquired in whole or in part with NHPRC funds, where the NHPRC has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

(o) *Federal awarding agency* means the Federal agency that provides an award to the recipient.

(p) *Federal funds authorized* means the total amount of NHPRC funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by NHPRC regulations or NHPRC implementing instructions.

(q) *Federal share of real property, equipment, or supplies* means that percentage of the property's acquisition costs and any improvement expenditures paid with NHPRC funds.

(r) *Funding period* means the period of time when NHPRC funding is available for obligation by the recipient.

(s) *Intangible property and debt instruments* means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

(t) *NARA* means the National Archives and Records Administration.

(u) *NHPRC* means the National Historical Publications and Records Commission.

(v) *Obligations* means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

(w) *Outlays or expenditures* means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

(x) *Personal property* means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

(y) *Prior approval* means written approval by an authorized official evidencing prior consent.

(z) *Program income* means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in § 1210.24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in NHPRC regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

(aa) *Project costs* means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

(bb) *Project period* means the period established in the award document during which NHPRC sponsorship begins and ends.

(cc) *Property* means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

(dd) *Real property* means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

(ee) *Recipient* means an organization receiving financial assistance directly from the NHPRC to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients at the discretion of the NHPRC. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

(ff) *Research and development* means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(gg) *Small awards* means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (currently $25,000).

(hh) *Subaward* means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in paragraph (e) of this section.

(ii) *Subrecipient* means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of the NHPRC.

(jj) *Supplies* means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (''subject inventions''), as defined in 37 CFR Part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.''

(kk) *Suspension* means an action by the NHPRC that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the NHPRC. Suspension of an award is a separate action from suspension under NARA regulations implementing E.O. 12549 and E.O. 12689, ''Debarment and Suspension'' (36 CFR Part 1209).

(ll) *Termination* means the cancellation of NHPRC sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

(mm) *Third party in-kind contributions* means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

(nn) *Unliquidated obligations*, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

(oo) *Unobligated balance* means the portion of the funds authorized by the NHPRC that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

(pp) *Unrecovered indirect cost* means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

(qq) *Working capital advance* means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 1210.3 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 1210.4.

§ 1210.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. The NHPRC may apply more restrictive requirements to a class of recipients when approved by OMB. The NHPRC may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by the NHPRC.

§ 1210.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations implementing the grants management common rule, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' published at 36 CFR part 1207.

Subpart B—Pre-Award Requirements

§ 1210.10 Purpose.

Sections 1210.11 through 1210.17 prescribes forms and instructions and other pre-award matters to be used in applying for NHPRC awards.

§ 1210.11 Pre-award policies.

(a) *Use of grants and cooperative agreements, and contracts.* In each instance, the NHPRC shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, ''substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.'' Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* The NHPRC shall notify the public of its intended funding priorities for discretionary grant programs.

§ 1210.12 Forms for applying for Federal assistance.

(a) The NHPRC shall comply with the applicable report clearance requirements of 5 CFR Part 1320, ''Controlling Paperwork Burdens on the Public,'' with regard to all forms used by the NHPRC in place of or as a supplement to the Standard Form 424 (SF–424) series.

(b) Applicants shall use the SF–424 (Application for Federal Assistance) and NA Form 17001 (Budget Form) forms and instructions prescribed by the NHPRC Program Guidelines. OMB Control Number 3095–0004 has been assigned to the Budget Form. OMB Control Number 3095–0013 has been assigned to the NHPRC Program Guidelines.

(c) Applicants shall complete the appropriate sections of the SF–424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC) under E.O. 12372, ''Intergovernmental Review of Federal Programs.'' The name and address of the SPOC for a particular State can be obtained from the NHPRC or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

§ 1210.13 Debarment and suspension.

The NHPRC and recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and 12689, ''Debarment and Suspension'' (36 CFR Part 1209). This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 1210.14 Special award conditions.

If an applicant or recipient has a history of poor performance, is not financially stable, has a management system that does not meet the standards prescribed in this part, has not conformed to the terms and conditions of a previous award, or is not otherwise responsible, the NHPRC may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 1210.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires NARA to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in NARA's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. NARA shall follow the provisions of E.O. 12770, ''Metric Usage in Federal Government Programs.''

§ 1210.16 Resource Conservation and Recovery Act.

Under the Resource Conservation and Recovery Act ((RCRA) (Pub. L. 94–580 codified at 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR Parts 247 through 254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

§ 1210.17 Certifications and representations.

Unless prohibited by statute or codified regulation, the NHPRC is authorized to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if they have an ongoing and continuing relationship with the NHPRC. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

Subpart C—Post-Award Requirements

Financial and Program Management

§ 1210.20 Purpose of financial and program management.

Sections 1210.21 through 1210.28 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 1210.21 Standards for financial management systems.

(a) The NHPRC shall require recipients to relate financial data to performance data and develop unit cost information whenever practical.

(b) Recipients' financial management systems shall provide for the following.

(1) Accurate, current and complete disclosure of the financial results of each NHPRC-sponsored project or program in accordance with the reporting requirements set forth in § 1210.52.

(2) Records that identify adequately the source and application of funds for NHPRC-sponsored activities. These records shall contain information pertaining to NHPRC awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101–453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR Part 205, ''Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.''

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the NHPRC, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) The NHPRC may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(e) Where bonds are required in the situations described in this section, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR Part 223, ''Surety Companies Doing Business with the United States.''

§ 1210.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR Part 205.

(b) Recipients will be paid in advance, provided they maintain or demonstrate the willingness to maintain written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient, and financial management systems that meet the standards for fund control and accountability as established in § 1210.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the NHPRC to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR Part 205.

(3) Recipients can submit requests for advances and reimbursements at least monthly when a predetermined schedule of electronic funds transfer is not used.

(d) Requests for Treasury check advance payment shall be submitted on SF–270, ''Request for Advance or Reimbursement,'' or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special NHPRC instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met.

(1) When the reimbursement method is used, the NHPRC shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients can submit a request for reimbursement at least monthly when a predetermined schedule of electronic funds transfer is not used.

(f) If a recipient cannot meet the criteria for advance payments and the NHPRC has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, the NHPRC may provide cash on a working capital advance basis. Under this procedure, the NHPRC shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, the NHPRC shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, the NHPRC shall not withhold payments for proper charges made by recipients at any time during the project period unless paragraph (h)(1) or (2) of this section apply.

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or NHPRC reporting requirements.

(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A–129, ''Managing Federal Credit Programs.'' Under such conditions, the NHPRC may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, the NHPRC shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of NHPRC funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of NHPRC funds in interest bearing accounts, unless paragraphs (k)(1), (2) or (3) of this section apply.

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) In keeping with Electronic Funds Transfer rules (31 CFR Part 206), interest earned should be remitted annually to the Department of Health and Human Services (HHS) Payment Management System through an electronic medium such as the FEDWIRE Deposit system. Recipients which do not have this capability should use a check and mail it to the Payment Management System, P.O. Box 6021, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the NHPRC, it waives its right to recover the interest under CMIA.

(m) Except as noted elsewhere in this part, only the SF–270, Request for Advance or Reimbursement, shall be authorized for the recipients in requesting advances and reimbursements. The NHPRC requires an original and two copies of this form.

§ 1210.23 Cost sharing or matching.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by the NHPRC.

(7) Conform to other provisions of this part, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of the NHPRC.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If the NHPRC authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of paragraph (c)(1) or (2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the NHPRC may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if paragraph (g)(1) or (2) of this section apply.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the NHPRC has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 1210.24 Program income.

(a) The NHPRC applies the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with these regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following.

(1) Added to funds committed to the project by the NHPRC and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When the NHPRC authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2) of this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that the NHPRC does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless the NHPRC indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in § 1210.14.

(e) Unless NHPRC regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by NHPRC regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See §§ 1210.30 through 1210.37).

(h) Unless NHPRC regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

§ 1210.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon NHPRC requirements.

It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) Recipients shall request prior approvals from the NHPRC for one or more of the following program or budget related reasons.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional NHPRC funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the NHPRC.

(6) The inclusion, unless waived by the NHPRC, of costs that require prior approval in accordance with OMB Circular A–21, ''Cost Principles for Institutions of Higher Education,'' OMB Circular A–122, ''Cost Principles for Non-Profit Organizations,'' or 45 CFR Part 74 Appendix E, ''Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals,'' or 48 CFR Part 31, ''Contract Cost Principles and Procedures,'' as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items will be imposed unless a deviation has been approved by OMB.

(e) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this section, the NHPRC is authorized, at their option, to waive cost-related and administrative prior written approvals required by this Circular and OMB Circulars A–21 and A–122. Such waivers may include authorizing recipients to do any one or more of the following.

(1) Incur pre-award costs 90 calendar days prior to award or more than 90 calendar days with the prior approval of the NHPRC. All pre-award costs are incurred at the recipient's risk (i.e., the NHPRC is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify the NHPRC in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional NHPRC funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent funding periods.

(4) For awards that support research, unless the NHPRC provides otherwise in the award or in NHPRC's regulations, the prior approval requirements described in paragraph (e) of this section are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (e)(2) of this section applies.

(f) The NHPRC may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the NHPRC. The NHPRC shall not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j), do not require prior approval.

(h) [Reserved]

(i) No other prior approval requirements for specific items will be imposed unless a deviation has been approved by OMB.

(j) The NHPRC shall require recipients to notify the NHPRC in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5,000 or five percent of the NHPRC award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(k) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the NHPRC indicates a letter of request suffices.

(l) Within 30 calendar days from the date of receipt of the request for budget revisions, the NHPRC shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the NHPRC shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 1210.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions.''

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501–7) and the cognizant Federal agency regulations implementing OMB Circular A–128, ''Audits of State and Local Governments.''

(c) Hospitals not covered by the audit provisions of OMB Circular A–133 shall be subject to the audit requirements of the cognizant Federal agency.

§ 1210.27 Allowable costs.

For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45

CFR Part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'' The allowability of costs incurred those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR Part 31.

§ 1210.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the NHPRC.

Property Standards

§ 1210.30 Purpose of property standards.

Sections 1210.31 through 1210.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by an NHPRC award. The NHPRC requires recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of §§ 1210.31 through 1210.37.

§ 1210.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with NHPRC funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 1210.32 Real property.

The NHPRC shall prescribe requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the NHPRC.

(b) The recipient shall obtain written approval by the NHPRC for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the NHPRC.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from the NHPRC or its successor Federal awarding agency. The NHPRC shall observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by the NHPRC and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 1210.33 Federally-owned and exempt property.

(a) Federally-owned property.

(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the NHPRC. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the NHPRC for further Federal agency utilization.

(2) If the NHPRC has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate instructions shall be issued to the recipient by the NHPRC.

(b) Exempt property. When statutory authority exists, the NHPRC has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions the NHPRC considers appropriate. Such property is ''exempt property.'' Should the NHPRC not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

§ 1210.34 Equipment.

(a) Title to equipment acquired by a recipient with NHPRC funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with NHPRC funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the NHPRC. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by the NHPRC which funded the original project, then

(2) Activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the NHPRC that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the NHPRC. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the NHPRC.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the NHPRC for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the NHPRC.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of $5,000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the NHPRC or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from the NHPRC. The NHPRC shall determine whether the equipment can be used to meet the NHPRC's requirements. If no requirement exists within the NHPRC, the availability of the equipment shall be reported to the General Services Administration by the NHPRC to determine whether a requirement for the equipment exists in other Federal agencies. The NHPRC shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the NHPRC an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by the NHPRC for such costs incurred in its disposition.

(4) The NHPRC reserves the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) The NHPRC shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If the NHPRC fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(iii) When the NHPRC exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 1210.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the NHPRC for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with NHPRC funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 1210.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The NHPRC reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

(c) Unless waived by the NHPRC, the Federal Government has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of the NHPRC. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 1210.34(g).

§ 1210.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with NHPRC funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The NHPRC may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 1210.40 Purpose of procurement standards.

Sections 1210.41 through 1210.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with NHPRC funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by the NHPRC upon recipients, unless specifically required by Federal statute or executive order or approved by OMB.

§ 1210.41 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to the NHPRC, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 1210.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 1210.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 1210.44 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that paragraphs (a) (1), (2) and (3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

(3) Solicitations for goods and services provide for all of the following.

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of ''brand name or equal'' descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses,

minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The ''cost-plus-a-percentage-of-cost'' or ''percentage of construction cost'' methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by NARA implementation of E.O.s 12549 and 12689, ''Debarment and Suspension'' (36 CFR Part 1209).

(e) Recipients shall, on request, make available for the NHPRC, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in the NHPRC's implementation of this part.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a ''brand name'' product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

§ 1210.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 1210.46 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

(a) Basis for contractor selection,

(b) Justification for lack of competition when competitive bids or offers are not obtained, and

(c) Basis for award cost or price.

§ 1210.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 1210.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the NHPRC, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(d) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this Part, as applicable.

Reports and Records

§ 1210.50 Purpose of reports and records.

Sections 1210.51 through 1210.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 1210.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 1210.26.

(b) Except as provided in paragraph (f) of this section, interim performance reports shall be submitted every six months and shall be due 30 days after the reporting period; final reports shall be due 90 calendar days after the end of the grant period.

(c) If inappropriate, a final performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following.

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify the NHPRC of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) The NHPRC may make site visits, as needed.

(h) The NHPRC shall comply with clearance requirements of 5 CFR Part 1320 when requesting performance data from recipients.

§ 1210.52 Financial reporting.

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.

(1) SF–269 or SF–269A, Financial Status Report.

(i) The NHPRC requires recipients to use the SF–269 or SF–269A to report the status of funds for all nonconstruction projects or programs. The NHPRC may, however, have the option of not requiring the SF–269 or SF–269A when the SF–270, Request for Advance or Reimbursement, or SF–272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF–269 or SF–269A shall be required at the completion of the project when the SF–270 is used only for advances.

(ii) The report may be on a cash or accrual basis.

(iii) The NHPRC shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) The NHPRC shall require recipients to submit the SF–269 or SF–269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by NHPRC upon request of the recipient.

(2) SF–272, Report of Federal Cash Transactions.

(i) When funds are advanced to recipients the NHPRC shall require each recipient to submit the SF–272 and, when necessary, its continuation sheet, SF–272a. The NHPRC shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) The NHPRC may require forecasts of Federal cash requirements in the ''Remarks'' section of the report.

(iii) When practical and deemed necessary, the NHPRC may require recipients to report in the ''Remarks'' section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF–272 15 calendar days following the end of each quarter. The NHPRC may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) The NHPRC may waive the requirement for submission of the SF–272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in the NHPRC's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or,

(C) When the electronic payment mechanisms provide adequate data.

(b) When the NHPRC needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, the NHPRC shall issue instructions to require recipients to submit such information under the ''Remarks'' section of the reports.

(2) When the NHPRC determines that a recipient's accounting system does not meet the standards in § 1210.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. The NHPRC, in obtaining this information, shall comply with report clearance requirements of 5 CFR Part 1320.

(3) The NHPRC is encouraged to shade out any line item on any report if not necessary.

(4) The NHPRC may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) The NHPRC may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

§ 1210.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. The NHPRC will not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the NHPRC. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with NHPRC funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by the NHPRC, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by the NHPRC.

(d) The NHPRC shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, the NHPRC may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) The NHPRC, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, the NHPRC will place no restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the NHPRC can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the NHPRC.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the recipient submits to the cognizant Federal agency or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the recipient is not required to submit to the NHPRC or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Termination and Enforcement

§ 1210.60 Purpose of termination and enforcement.

Sections 1210.61 and 1210.62 set forth uniform suspension, termination and enforcement procedures.

§ 1210.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraphs (1), (2) or (3) of this section apply.

(1) By the NHPRC, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By the NHPRC with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to the NHPRC written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the NHPRC determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraphs (a)(1) or (2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 1210.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 1210.62 Enforcement.

(a) Remedies for noncompliance. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the NHPRC may, in addition to imposing any of the special conditions outlined in § 1210.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the NHPRC.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) Hearings and appeals. In taking an enforcement action, the NHPRC shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(c) Effects of suspension and termination. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the NHPRC expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if paragraphs (c)(1) and (2) of this section apply.

(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under E.O.s 12549 and 12689 and NARA implementing regulations (see § 1210.13).

Subpart D—After-the-Award Requirements

§ 1210.70 Purpose.

Sections 1210.71 through 1210.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 1210.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. The NHPRC may approve extensions when requested by the recipient.

(b) Unless the NHPRC authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) The NHPRC shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that the NHPRC has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, the NHPRC shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 1210.31 through 1210.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, the NHPRC shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 1210.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of the NHPRC to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 1210.26.

(4) Property management requirements in §§ 1210.31 through 1210.37.

(5) Records retention as required in § 1210.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the NHPRC and the recipient, provided the responsibilities of the recipient referred to in § 1210.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 1210.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the NHPRC may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements;

(2) Withholding advance payments otherwise due to the recipient; or

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, the NHPRC shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, ''Federal Claims Collection Standards.''

Appendix A to Part 1210—Contract Provisions

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with E.O. 11246, ''Equal Employment Opportunity,'' as amended by E.O. 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a–7)—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR part 5, ''Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction''). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)—Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), as amended—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O. 12549 and E.O. 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O. 12549 and E.O. 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Dated: August 31, 1995.

John W. Carlin,

Archivist of the United States.

[FR Doc. 95–25548 Filed 10–13–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[WH–FRL–5308–7]

RIN 2040–AC54

Whole Effluent Toxicity: Guidelines Establishing Test Procedures for the Analysis of Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants,'' 40 CFR part 136, to add whole effluent toxicity (WET) testing methods to the list of Agency approved methods in Tables IA and II, under the Clean Water Act. This action amends 40 CFR 136.3 (Tables 1A and II) by adding methods for measuring the acute and short-term chronic toxicity of effluents and receiving waters.

This rulemaking was initiated at the request of the States. The overall benefit of today's rulemaking is that it will reduce costs and eliminate the confusion caused by the multiple versions of any one test method currently in use. For example, currently, an industry with facilities in six different states may be required to conduct six different versions of the same test method. EPA estimates that standardizing these approved methods could save the regulated community up to 20% of the current test method costs, which range from $160.00–$2240.00, depending upon the test method. This rulemaking will also reduce the current resource burden in the States because they will no longer need to justify the inclusion of WET monitoring or WET limits in National Pollution Discharge Elimination System (NPDES) permits on a case-by-case basis.

This rule incorporates three technical documents, by reference, thereby dramatically reducing the number of pages included in today's Federal Register. A listing of these documents and where they can be viewed or obtained can be found in section VIII of the preamble.

Methods for measuring mutagenicity (changes in genes or chromosomes)or for monitoring viruses in wastewaters and sludges that were included in the December 1989 proposal are not included in this final rule. When better scientific methods for measuring mutagenicity and viruses become available, the Agency will evaluate them for possible inclusion in 40 CFR part 136. Finally, the methods for marine chronic toxicity in today's rule do not apply to discharges into marine waters of the Pacific Ocean. Methods addressing such discharges will be proposed at a later date.

EFFECTIVE DATE: This final rule becomes effective November 15, 1995. The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Office of Federal Register on November 15, 1995.

In accordance with 40 CFR 23.2, this rule shall be considered issued for the purposes of judicial review October 26, 1995, at 1 p.m. eastern daylight time. Under section 509(b)(1) of the Clean Water Act, judicial review of these amendments can be obtained only by filing a petition for review in the United States Court of Appeals within 120 days after they are considered issued for the purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements of these amendments may not be challenged later in civil or criminal proceedings to enforce these requirements.

ADDRESSES: The public record and all supporting materials pertinent to the development of this final rule, including response to comments received on the December 1989 proposal, are available for inspection at the Water Docket located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. For access to the Docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. A listing, of where to view or obtain copies of the three manuals incorporated by reference in today's rulemaking, can be found in section VIII of the preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Margarete A. Heber, Health and Ecological Criteria Division, Office of Science and Technology, (Mail Code 4304) U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460 or call (202) 260–0658; or Ms. Teresa Norberg-King, Environmental Research Laboratory, U.S. Environmental Protection Agency, 6201 Congdon Boulevard, Duluth, MN 55804.

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I. Authority

EPA is promulgating this rule under the authority of sections 301, 304(h), and 501(a) of the Clean Water Act (''CWA'' or the ''Act''), 33 U.S.C. 1251 et seq., 33 U.S.C. 1311, 1314(h), 1361(a). Section 301 of the Act prohibits the discharge of any pollutant into navigable waters unless the discharge complies with certain requirements of the Act, including a requirement for a National Pollutant Discharge

Elimination System (''NPDES'') permit issued pursuant to CWA section 402. Section 304(h) of the Act requires the Administrator to ''promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to (CWA section 401) or permit applications pursuant to (CWA section 402).'' 33 U.S.C. 1314(h). Section 501(a) authorizes the Administrator ''to prescribe such regulations as are necessary to carry out his function under the Act.'' 33 U.S.C. 1361(a).

II. Regulatory Background

A. Analytical Methods Under 40 CFR Part 136

The CWA establishes two principal bases for the incorporation of effluent limitations in NPDES permits. Effluent limitations implement both technology-based and water quality-based requirements of the Act. Technology-based limitations represent the degree of control that can be achieved using various levels of pollution control technology. In addition to the technology-based effluent limitations, the Act directs the states, with federal approval and oversight, to establish water quality-based standards to assure protection of the quality of state waters. The state standards designate uses for navigable waters and establish water quality criteria to protect such uses. If necessary to achieve compliance with applicable water quality standards, NPDES permits must contain water quality-based limitations more stringent than the applicable technology-based standards.

To ensure compliance with these effluent limitations, EPA has promulgated regulations providing nationally-approved testing procedures in 40 CFR part 136. Approved analytical test procedures also must be used for the analysis of pollutants in permit applications, discharge monitoring reports, state certification under CWA section 401, as well as determining compliance with pretreatment standards issued under CWA section 307. Test procedures have previously been approved for 262 different parameters (Table 1, 40 CFR 136.3). Approved test procedures apply to the analysis of bacteriological, inorganic (metal, non-metal, mineral, nutrient, demand, residue) and physical, non-pesticide organic, pesticide, and radiological parameters. Today's rule adds methods to the list of nationally-approved methods. Regulations also provide a mechanism for the approval of alternate analytical methods at 40 CFR 136.4. Under this regulation, the Administrator may approve alternate test procedures developed and proposed by dischargers or other persons.

Finally, there may be discharges that require limitations for certain parameters using test procedures not yet approved under 40 CFR part 136. Under 40 CFR 122.41(j)(4) and 122.44(i)(1)(iv) permit writers may include, through permit proceedings, parameters requiring the use of test procedures that are not approved part 136 methods. EPA also may include such parameters in accordance with the provisions prescribed at 40 CFR 401.13, ''Test Procedures for Measurements.'' Many of the whole effluent toxicity testing methods, incorporated by reference in today's rulemaking, have been included in NPDES permits utilizing the provisions in 40 CFR 122.41(j)(4). Today's rulemaking will relieve the NPDES permit writers of having to include these test methods on a case-by-case-basis. By the same token, the test methods standardized in today's rule will replace unapproved test methods (or variations thereof) for NPDES permits issued after the effective date of today's rule. Existing NPDES permits need not be re-opened to include test methods from today's rule.

B. Toxicity Testing

Until recently, EPA programs for the control of toxic discharges were based largely on effluent limitations for individual chemicals. EPA has developed water quality criteria for many pollutants based on comprehensive testing and evaluation that, unlike whole-effluent testing, considers a variety of toxic endpoints, including human health impact and bioaccumulation. Once a water quality criterion is developed, it can be used to develop a state numeric criteria within a water quality standard (40 CFR 131.11(b)) and/or permit limit to ensure that the level of that toxicant in the discharge does not exceed the water quality standard (40 CFR 122.44(d)(1)(iii) & (iv)).

Data on the toxicity of substances to aquatic organisms, however, are available for only a limited number of elements and compounds. Effluent limitations on specific compounds, therefore, do not necessarily provide adequate protection for aquatic life when the toxicity of effluent components is not known, effects of effluent components are additive, synergistic, or antagonistic, and/or when an effluent has not been chemically characterized. In such situations, EPA and the States can use biological methods to examine the whole effluent toxicity, rather than attempt to identify all toxic pollutants, determine the effects of each pollutant individually, and then attempt to assess their collective effect.

When whole effluent toxicity testing is used, toxicity itself is a pollutant parameter. The toxicants creating that toxicity need not be specifically identified to limit the effluent's toxicity. An analogy between effluent toxicity and biochemical oxygen demand (BOD) can be drawn. Both are measurements of a biological effect. Both can be quantified. In neither case are the causative agents of the biological effect specifically identified. Thus, whole effluent toxicity is like BOD in that it is a useful parameter for characterizing an undesirable effect caused by the discharge of a complex mixture of waste materials.

The Declaration of Goals and Policy at Section 101(a)(3) of the Act states that ''it is the national goal that the discharge of toxic pollutants in toxic amounts be prohibited.'' Section 502 (13), describes toxic pollutants as ''* * * those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, physiological malfunctions, behavioral abnormalities, physical deformation, birth defects, genetic mutations, and cancer.'' Today's rule establishes procedures to measure some of these effects. Owners or operators of NPDES facilities may be required as a permit application or permit condition to perform one or more of these tests methods to assure compliance with relevant water quality standards. Both the D.C. and Ninth Circuit Courts of Appeals have recently upheld EPA's authority to set and measure limits on toxicity without regulating specific toxic pollutants (*NRDC* v. *EPA* 859 F.2d 156 (D.C. Cir. 1988); *NRDC* v. *EPA* 863 F.2d 1426 (9th Cir. 1988).

C. EPA's Whole Effluent Toxicity (WET) Policy

To achieve the goals of the Federal water pollution control legislation, extensive effluent toxicity screening programs were conducted during the 1970s by the EPA regional and state programs and permittees. Acute toxicity tests (USEPA, 1975, Methods for Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians, National Water Quality Research

Laboratory, Duluth, Minnesota; USEPA, 1978, Environmental Monitoring and Support Laboratory, USEPA, Cincinnati, Ohio, EPA/600/4–78/012) were used to measure effluent toxicity and to estimate the effects of toxic effluents on aquatic life in receiving waters. During this period, short-term inexpensive methods were not available to detect the more subtle, low-level, long-term (chronic), adverse effects (such as reduction in growth and reproduction, and occurrence of terata) of effluents on aquatic organisms. Rapid developments in toxicity test methods since 1980, however, have resulted in the availability of several methods that permit detection of the low-level, adverse effects (chronic toxicity) of effluents to freshwater and marine organisms in nine days or less.

As a result of the increased awareness of the value of effluent toxicity test data for toxics control in the water quality program and the NPDES permit program, EPA issued a national policy statement entitled, ''Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants,'' in the Federal Register (49 FR 9016, Mar. 9, 1984). This policy statement was updated in a document entitled, ''Whole Effluent Toxicity (WET) Control Policy,'' published by EPA in July 1994 (EPA 833–B–94–002).

The policy recommended the use of toxicity data to assess and control the discharge of toxic pollutants to the nation's waters through the NPDES permits program. The policy stated: ''Biological testing of effluents is an important aspect of the water quality-based approach for controlling toxic pollutants. Effluent toxicity data, in conjunction with other data, can be used to establish control priorities, assess compliance with state water quality standards, and set permit limitations to achieve those standards.''

The policy also addressed the technical approach for assessing and controlling the discharge of toxic pollutants to the nation's waters through the NPDES permit program, and discussed the application of chemical and biological methods for assuring the regulation of effluent discharges in accordance with federal and state requirements. The policy stated that ''EPA will use an integrated strategy consisting of both biological and chemical methods to address toxic and non-conventional pollutants from industrial and municipal sources. In addition to enforcing specific discharge limits for toxic pollutants, EPA and the States will use biological techniques and available data on the biological effects of chemicals to assess toxicity impacts and human health hazards based on the general standards of 'no toxic materials in toxic amounts'.''

Additional guidance on the implementation of biomonitoring and the use of effluent and receiving water toxicity data is available in a technical support document published by the EPA Office of Water (''Technical Support Document for Water Quality-Based Toxics Control,'' March 1991, EPA/505/2–90/001; PB91–127415).

Since the l984 Agency policy, the use of effluent toxicity tests has increased steadily within the EPA and State NPDES programs to identify toxic discharges, and by permittees as a self-monitoring tool (USEPA, 1979, Interim NPDES Compliance Biomonitoring Inspection Manual, Washington, DC). Regulatory authorities must now establish whole effluent toxicity limits where necessary to meet the requirements of 40 CFR 122.44(d) (54 FR 23868, Jun. 2, 1989). The 1989 rule, which clarified EPA's Surface Water Toxics Control Program, defined ''whole effluent toxicity'' and described procedures for determining whether an NPDES permit must include a water quality-based effluent limitation. The regulation also addressed procedures for deriving effluent limits from state narrative or numeric water quality criteria. At that time, EPA noted that protocols and guidance documents used to perform toxicity tests were only recommended. With today's rule, when NPDES permits require whole effluent toxicity limits, testing must be conducted according to the toxicity test protocols described in the test manuals cited in Table IA, 40 CFR part 136, as amended (except for chronic toxicity limitation for discharges into marine waters of the Pacific Ocean).

The Environmental Monitoring Systems Laboratory—Cincinnati (EMSL-Cincinnati) developed standard test procedures and published standardized acute and chronic toxicity tests methods to minimize intralaboratory and interlaboratory variability in toxicity tests conducted by EPA regional and state programs and NPDES permittees.

D. Proposed Rule Published December 4, 1989

On December 4, l989, EPA proposed at 54 FR 50216 to add the following methods to Table IA, 40 CFR part 136: (1) Methods to measure the acute toxicity of effluents and receiving waters to freshwater and marine organisms, (2) short-term methods to estimate the chronic toxicity of effluents and receiving waters to freshwater, estuarine, and marine organisms, (3) methods to measure the mutagenicity (genotoxicity) of wastewaters, sludges, and surface waters, and (4) methods to recover, enumerate, and identify human enteric viruses in wastewater, sludges, and surface waters. Changes were also proposed for Table II, on sample preservation and holding times. EPA provided a 60-day public comment period.

In response to the Proposed Rule, comments were received from a broad cross-section of public and private agencies, including major trade organizations, large industries, large environmental consulting firms, universities, state and interstate water pollution control agencies, and other Federal agencies. A summary of the major comments concerning acute and chronic testing for freshwater and marine organisms, and EPA's responses to them, are addressed below. Responses to the remainder of the comments are contained in the Supplementary Information Document (SID) portion of the rulemaking record. The entire Water Docket is available for inspection from 9 to 3:30 p.m. at 401 M St SW., Washington DC 20460. Call (202) 260–3027 for an appointment.

In addition, the Agency decided not to finalize the test methods proposed to measure the mutagenicity (genotoxicity) of wastewaters, sludges, and surface waters; and methods to recover, enumerate, and identify human enteric viruses in wastewater, sludges, and surface waters. In the mid 1980s, the Agency believed that a simple test like the Ames test could be used as a predictor of chronic health effects (*i.e.* carcinogenicity). However, this test produces many false results, and, thus, could potentially confuse or mislead regulators. Presently, the Agency is working on different methods to recover, enumerate, and identify human enteric viruses, and so the methods proposed are no longer representative of the best available science.

III. Biological Methods Included in the Final Rule

A. Basis for Approval

Many of the comments received on the proposed rule were helpful in identifying ambiguities and minor inconsistencies in the aquatic toxicity test methods which had been published at different times during the seven years preceding the proposal. This was particularly true with regard to the comment received from numerous commenters to reformat the three manuals to make them both consistent with each other and easier to use. The biological methods added to Table IA, 40 CFR part 136, in this final rule are described below, and are included in the rulemaking docket.

The tests have been validated in a number of studies conducted by EPA, state programs, and universities. The methods are well established and are currently being implemented in a number of NPDES permits. Furthermore, each of the methods has extensive guidance on quality assurance and routine quality control activities.

Information on the single laboratory precision of the methods is included in the respective short-term test manuals in the rulemaking docket. The methods in this rule have precision profiles comparable to previously established part 136 methods. The Agency stands behind the conclusion that the biological methods in this rule are applicable for use in NPDES permits.

B. Summary of Methods to Measure the Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms

The three aquatic toxicity test manuals cited at 54 FR 50216 have been revised as a result of public comment on the proposed rule. The revised editions, discussed below, are as follows: (1) USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fourth Edition, EPA/600/4–90/027F; (2) USEPA. 1994. Short-term Methods to Estimate the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Third Edition, July 1994, EPA/600/4–91/002; and (3) USEPA. 1994. Short-term Methods to Estimate the Chronic Toxicity of Effluents and Receiving Waters to Estuarine and Marine Organisms, Second Edition, July 1994, EPA/600/4–91/003.

1. Methods to Measure the Acute Toxicity of Effluents and Receiving Waters to Freshwater Estuarine and Marine Organisms

This rule includes methods to measure the acute toxicity of effluents and receiving waters to freshwater and marine fish and invertebrates, as described in the EPA methods manual, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (EPA/600/4–90/027F). This methods manual represents the fourth edition of the acute toxicity test manual first published by EMSL-Cincinnati in 1978 (EPA/600/4–78/012). The methods, developed with the assistance of the Agency's Toxicity Assessment Subcommittee of the Biological Advisory Committee, are periodically updated, expanded, and republished. Any such changes, however, will be published in the Federal Register prior to their effective date for regulatory purposes. The most recent (third) edition was published in 1985 (EPA/600/4–85/013).

The current manual (EPA/600/4–90/027F) describes tests for effluents and receiving waters, and includes guidelines for the following areas: Laboratory safety; quality assurance; facilities and equipment; effluent sampling and holding times; dilution water; test species selection, culturing, and handling; data collection, interpretation and utilization; report preparation; and dilutor and mobile toxicity test laboratory design.

The acute toxicity tests in the manual generally involve exposure of any of 20 test organisms to each of five effluent concentrations and a control water. The test duration depends on the objectives of the test and the test species, and ranges from 24–96 hours. The manual includes a list of freshwater and marine test organisms, and specified test conditions for 10 commonly used freshwater and marine organisms—Ceriodaphnia dubia, Daphnia magna, Daphnia pulex, fathead minnows (Pimephales promelas), rainbow trout (Oncorhynchus mykiss), brook trout (Salvelinus fontinalis), mysids (Mysidopsis bahia and Holmesimysis costata), Bannerfish shiners (Notropis leedsi), sheepshead minnows (Cyprinodon variegatus), and silversides (Menida menidia, M. beryllina, and M. peninsulae). The organisms and test conditions are selected by the user (e.g. permitting authority for NPDES permits) depending on the objectives of the test and the effluent and receiving water characteristics.

The tests are used to determine the effluent concentration, expressed as a percent volume, that within the prescribed test period causes death in 50% of the organisms (LC50), or whether survival in a given (single) concentration of effluent, or in receiving water, is significantly different than in controls. Where death is not easily detected, e.g., with some invertebrates like Ceriodaphnia and Daphnia, immobilization is considered equivalent to death. Procedures for determining the LC50 include the graphical method, the Probit method and the trimmed Spearman-Karber method. Where survival in a single effluent concentration or in receiving water is compared to survival in the control to determine if they are significantly different, a hypothesis test, Dunnett's Test, is used. Copies of computer programs for statistical analysis of the data referred to in the manual are available from EMSL-Cincinnati.

End-of-the-pipe effluent toxicity data are used to predict potential acute and chronic toxicity of effluents in the receiving water, based on the LC50 and appropriate dilution, application, and persistence factors. The tests can be conducted as a part of self-monitoring permit requirements, compliance evaluation inspections, compliance biomonitoring inspections, compliance sampling inspections, toxics sampling inspections, performance audit inspections, and special investigations. The tests can be performed in a central test laboratory or on-site by the regulatory agency or the permittee. Acute toxicity tests can be used in toxicity reduction evaluations to identify toxic waste streams within plants, to aid in the development and implementation of toxicity reduction plans, and also can be used to compare and control the effectiveness of various treatment technologies for a given type of industry, irrespective of the receiving water (49 FR 9016, Mar. 9, 1984).

Several types of acute toxicity tests are described, including static non-renewal, static renewal, and flow-through. The selection of the test type will depend upon the objectives of the test, available resources, requirements of the test organisms, and effluent characteristics, such as fluctuations in effluent toxicity. Special environmental requirements of some organisms (such as flowing water, or fluctuating water levels) may preclude the use of static tests.

Static tests include: (1) Non-renewal tests in which the test organisms are exposed to the same effluent solution or receiving water for the duration of the test, and, (2) renewal tests in which the organisms are exposed to a fresh test solution every 24 hours or other prescribed interval, either by transferring the test organisms from one test chamber to another or by replacing all or a portion of the effluent solution in the test chambers. Sample renewal reduces some of the possible effects of factors which may affect the apparent toxicity of the effluent, such as toxicant adsorption on the walls of the test chambers, biodegradation and/or chemical transformation of the toxicants, volatilization, and uptake and metabolism of toxicants by test organisms.

Two types of flow-through tests are described: (1) Effluent is pumped continuously from the sampling point directly to the dilutor system; and (2) effluent grab or composite samples are collected periodically, placed in a tank adjacent to the test laboratory, and pumped continuously from the tank to the dilutor system. The flow-through method employing continuous effluent sampling is the preferred method for on-site tests. Because of the large volume (often 400 L/day) of effluent normally required, flow-through tests are generally considered too costly and impractical to conduct at off-site laboratories.

Parameters and Units:

The results of the test are reported as the LC50 (Lethal Concentration—50), which is the concentration of effluent causing death (or immobilization, or other adverse effect) in 50% of the test organisms or, in the case of single concentration tests, a statistically significant increase in lethality in the effluent sample as compared to the control.

Precision:

Data on single laboratory precision (intra-) and multi-laboratory (inter-) precision from tests with reference toxicants are provided in the manual (EPA/600/4–90/027F).

2. Short-Term Methods to Estimate the Chronic Toxicity of Effluents and Receiving Waters to Freshwater, Estuarine, and Marine Organisms

Today's rule includes two sets of short-term chronic toxicity test methods: (1) Four methods for freshwater organisms and (2) six methods for estuarine and marine organisms, found in the EPA methods manuals, Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Third Edition (EPA/600/4–91/002) July 1994, and Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Estuarine and Marine Organisms, Second Edition (EPA/600/4–91/003) July 1994, respectively. The tests are used to estimate one or more of the following: (1) The chronic toxicity of effluents collected at the end of the discharge pipe and tested with a standard dilution water; (2) the chronic toxicity of effluents collected at the end of the discharge pipe and tested with dilution water consisting of receiving water collected upstream or beyond the influence of the outfall, or with other uncontaminated surface water or standard dilution water having approximately the same hardness or salinity as the receiving water, depending on the nature of the receiving water (fresh or saline) and test organisms; (3) the toxicity of diluted effluent in the receiving water downstream or at increasing distance from the outfall; and (4) the effects of multiple discharges on the quality of the receiving water. The tests may also be useful in developing site-specific water quality criteria.

The use of short-term, subchronic, and chronic toxicity tests in the NPDES Program is recommended in the 1984 EPA policy on water-quality based permit limits, and subsequently can be required under 40 CFR 122.44(d). The short-term chronic methods are more effective analytical tools because they provide a more comprehensive prediction of the effects of toxic effluents on aquatic life in receiving waters than is provided by acute toxicity tests, at a greatly reduced level of effort compared to earlier chronic toxicity test methods (i.e. fish full-life-cycle chronic and 30-day early life-stage tests, and the 21- to 28-day invertebrate life-cycle tests). The endpoints generally used in chronic tests are survival, growth, and reproduction. The effects include the synergistic, antagonistic, and additive effects of all the chemical, physical, and biological components that adversely affect the physiological and biochemical functions of the test organisms.

(a) Short-Term Chronic Toxicity Test Methods for Freshwater Organisms. The approved toxicity test methods for freshwater organisms are found in the manual, Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Third Edition (EPA/600/4–91/002) July 1994. The manual describes four- to seven-day methods for estimating the chronic toxicity of effluents and receiving waters to three species: (1) The fathead minnow, Pimephales promelas; (2) the cladoceran, Ceriodaphnia dubia; and (3) the alga, Selenastrum capricornutum.

Guidelines are also included on laboratory safety, quality assurance, facilities and equipment, dilution water, effluent sampling and holding, data analysis, report preparation, and organism culturing and handling. Copies of computer programs for statistical analysis of the data referred to in the manual, are available from EMSL-Cincinnati. The approved short-term chronic tests are:

METHOD 1000.0:

Fathead Minnow (Pimephales promelas) Larval Survival and Growth Test. Larvae (preferably less than 24 hours old) are exposed in a static renewal system to a control water and at least five concentrations of effluent, or to receiving water for seven days. Test results are determined on the survival and weight of the larvae in test solutions, compared to the controls.

METHOD 1001.0:

Fathead Minnow (Pimephales promelas) Embryo-larval Survival and Teratogenicity Test. Fathead minnow embryos are exposed in a static renewal system to a control water and at least five different concentrations of effluent, or to receiving water, from shortly after egg fertilization to hatch, and the larvae are exposed an additional four days posthatch (total of eight days). Test results are determined on the combined frequency of both mortality and gross morphological deformities (terata) in test solutions, compared to the controls. The test is useful for screening for teratogens because organisms are exposed during embryonic development.

METHOD 1002.0:

Ceriodaphnia dubia Survival and Reproduction test. Ceriodaphnia neonates are exposed to a control water and at least five different concentrations of effluent, or to receiving water, in a static renewal system until 60% of control females have three broods of young, or a maximum of 8 days. Test results are based on survival and reproduction in test solutions, compared to the controls.

METHOD 1003.0:

Algal (Selenastrum capricornutum) Growth Test. A Selenastrum population is exposed to a control water and to at least five different concentrations of effluent, or to receiving water, in a static system, for 96 hours. The test results are determined by the population responses in test solutions in terms of changes in cell density (cell counts per milliliter), biomass, chlorophyll content, or absorbance, compared to the controls.

Toxicity Test Endpoints. The endpoints for the freshwater short-term chronic toxicity tests with effluents and receiving waters are summarized as: (1) The NOEC, which is the highest percent effluent concentration at which no adverse effect on survival, growth, or reproduction is observed, and (2) the IC25 (Inhibition Concentration, 25%), which is the effluent concentration at which growth or reproduction are reduced 25% from that of controls. Although both endpoints are permissible, EPA recommends the IC25 endpoint for regulatory use.

The precision of the freshwater chronic toxicity tests is discussed in the respective methods sections in the methods manual (EPA/600/4–91/002). NOECs from repetitive tests generally fall within one concentration interval of the median value, and when measured with the IC25, the precision is generally in the range of 30–60%. Precision can be improved by decreasing the concentration interval around the median value. This is accomplished by adding more concentration on either side of the median value.

(b) Short-Term Chronic Toxicity Test Methods for Estuarine and Marine Organisms. The approved short-term chronic toxicity tests for estuarine and marine organisms are contained in the manual, Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Estuarine and Marine Organisms, Second Edition, July 1994 (EPA/600/4–91/003). This manual describes six short-term (one-hour to nine-day) methods for estimating the chronic toxicity of effluents and receiving waters to five species: The sheepshead minnow, Cyprinodon variegatus; the inland silverside, Menidia beryllina; the mysid shrimp, Mysidopsis bahia; the sea urchin, Arbacia punctulata; and the red macroalga, Champia parvula.

The marine chronic toxicity tests in today's rule do not apply to discharges into marine waters of the Pacific Ocean. Toxicity tests for such discharges will continue to be specified in NPDES permits on a case-by-case basis. EPA intends to propose standardized toxicity test methods based on the methods developed by the States and EPA laboratories on the Pacific Coast.

Guidelines are included on laboratory safety, quality assurance, facilities and equipment, dilution water, effluent sampling methods and holding times and temperatures, data analysis, report preparation, and organism culturing and handling. Copies of computer programs for statistical analysis of the data referred to in the manual are available from EMSL-Cincinnati. The approved short-term chronic tests are:

METHOD 1004.0:

Sheepshead Minnow (Cyprinodon variegatus) Larval Survival and Growth Test. Larvae (preferably less than 24 hours old) are exposed in a static renewal system to a control water and at least five concentrations of effluent, or to receiving water for seven days. Test results are determined on the survival and weight change of the larvae in test solutions, compared to the controls.

METHOD 1005.0:

Sheepshead Minnow (Cyprinodon variegatus) Embryo-larval Survival and Teratogenicity Test. Sheepshead minnow embryos are exposed in a static renewal system to a control water and at least five different concentrations of effluent, or to receiving water, from shortly after fertilization of the eggs to hatch, and the larvae are exposed for an additional four days posthatch (total of nine days). Test results are determined based on the combined frequency of both mortality and gross morphological deformities (terata) in the test solutions, compared to the controls. The test is useful in screening for teratogens because organisms are exposed during embryonic development.

METHOD 1006.0:

Inland silverside (Menidia beryllina), Larval Survival and Growth Test Larvae (preferably 7–11 days old) are exposed in a static renewal system to a control water and at least five concentrations of effluent, or to receiving water for seven days. Test results are determined on the survival and weight change of the larvae in the test solutions, compared to the controls.

METHOD 1007.0:

Mysidopsis bahia Survival, Growth, and Fecundity Test. Seven-day old mysids are exposed in a static renewal system to a control water and at least five different concentrations of effluent, or to receiving water for seven days. Test results are determined on survival, growth, and egg production (fecundity) of the mysids in the test solutions, compared to the controls.

METHOD 1008.0:

Arbacia punctulata Fertilization Test. Arbacia sperm are exposed one hour in a static system to control medium and at least five concentrations of effluent, or to receiving water. Eggs are then added to the sperm and both are exposed for an additional 20 minutes. The response is measured in terms of the percent fertilization of the eggs compared to the control.

METHOD 1009.0:

Champia parvula Reproduction Test. Branches of male and female plants are placed together for 48 hours in a static system and exposed to a control medium and at least five concentrations of effluent, or in receiving water. The exposed plants are then transferred to control medium for a recovery period of 5–7 days. After the recovery period, the numbers of reproductive structures (cystocarps) that develop on the female plants as a result of fertilization in the test solutions are compared to the controls.

Test Endpoints. The endpoints for the estuarine and marine short-term chronic toxicity tests with effluents and receiving waters include: (1) The NOEC, which is the highest percent effluent concentration at which no adverse effect on survival, growth, or reproduction is observed, and (2) the IC25 (Inhibition Concentration, 25%), which is the effluent concentration at which growth or reproduction are reduced 25% from that of controls. Although both endpoints are permissible, EPA recommends the IC25 endpoint for regulatory use.

The precision of the chronic toxicity tests is discussed in the respective methods sections in the manual (EPA/600/4–91/003). NOECs from repetitive tests generally fall within one concentration interval of the median value. The precision of these test methods is also given in the Technical Support Document (second edition) that provides additional data points.

IV. Summary of Response to Comments for Aquatic Toxicity Tests

This section of the preamble summarizes the changes to the three methods manuals and significant comments received. The rest of the comments are summarized in the Supplementary Information Document (SID) which is available in the Water Docket.

A. Summary of Changes

One of the most commonly mentioned comments in the proposal was to have all three manuals formatted similarly, so that the documents would be easier to use. The three documents incorporated by reference in this rulemaking are now formatted in the same way, and as a result, are more ''user friendly''.

With this rule, several technical and editorial changes are made in the manual, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, to respond to public comments on the Proposed Rule, December 4, 1989, and to make certain technical and policy language consistent with the revised freshwater and marine short-term chronic toxicity test manuals (EPA/600/4–91/002, EPA/600/4–91/003). Most of the substantive method changes made pursuant to public comment were made in the acute toxicity manual. Changes to the chronic toxicity manuals were largely related to format and consistency between the manuals. Briefly the changes are explained below.

Two paragraphs have been added to the introduction. The first paragraph cautions against making unauthorized changes in the methods, and the second paragraph makes a statement about experience needed by users of the methods. In Section 7, on the selection of dilution water for tests, ''ground water'' is added as an acceptable ''natural'' water. In Section 8, on sample collection and handling, the description of sample ''holding time'' was expanded, but holding conditions and limits on sample holding time were not changed. In Section 9, on toxicity test procedures, an explanation was added on how an increase in pH during a toxicity test can be reduced or avoided by using a static renewal or flow-through approach. In Section 9, on toxicity test procedures, one footnote was added to each of two tables of test summary conditions, listing an additional species that could be used with the test conditions. These changes were made in response to comments on the proposed rule.

B. Effluent and Receiving Water Toxicity Tests with Fish and Aquatic Life

1. Test Variability

Comment: Toxicity test results are too variable, and methods are not sufficiently well standardized or validated with round robin data to include in 40 CFR part 136.

Response: EPA agrees that methods approved under part 136 should be validated scientifically. Further, EPA recognizes that an interlaboratory study (round robin) provides a useful and desirable means of validating an analytical method. However, EPA does not consider such a study to be a requirement for approval under Part 136 for a variety of reasons. First, prior to each interlaboratory study conducted with aquatic toxicity tests methods, EPA conducted intralaboratory studies that demonstrated similar, satisfactory precision. Where the Agency does not have interlaboratory data for a species, adequate data on intralaboratory precision are available. Second, quality assurance and quality control procedures specified in the toxicity test methods manuals are designed to minimize any variability due to analyst error or stress in test cultures due to factors other than effluent toxicity. Finally, the toxicity test methods specify a procedure for a series of initial repetitive tests to ensure that laboratory results during any particular analysis establish a pattern of satisfactory performance and define that laboratory's intralaboratory variability.

EPA does consider the precision of candidate methods in approving such methods under part 136. The essential criterion is that the precision of the methods fall within the approximate range of other Agency methods (including those in part 136), and that approved methods provide valid results. For some of the chemical-specific methods, e.g., for manganese, the variability at the low end of the measurement detection range exceeds that of the toxicity test methods. Compare *Technical Support Document for Water Quality-based Toxics Control* at 3, Table 1–3 (EPA/505/2–90–001). A large amount of intra- and inter-laboratory precision data are available on the toxicity tests approved in today's rule, and representative data sets are included in the methods manuals. On the basis of these data, EPA is comfortable with the conclusion that whole effluent toxicity tests are no more variable than chemical analytical methods in Part 136 and, therefore, stands behind the conclusion that toxicity tests in NPDES permits provide reliable indicators of whole effluent toxicity.

2. Quality Assurance/Quality Control (QA/QC)

Some commenters expressed the opinion that the Agency's QA requirements were excessively time-consuming and costly, whereas other commenters stated that the requirements were too lenient. See the SID for additional QA/QC information, such as the requirements for five initial toxicity tests, cleaning labware and apparatus, and food quality. The major comments on QA were as follows:

a. Existence of QA Guidelines for Toxicity Tests

Comment: The proposed methods do not contain the necessary QA protocols.

Response: EPA disagrees. Each of the toxicity test methods manuals incorporated by reference into Table IA, 40 CFR part 136, contains separate, detailed, QA/QC guidelines, and each analytical method within these manuals discusses all aspects of the tests which relate to QA/QC.

b. Reference Toxicant Tests

Comment: The requirement for monthly chronic QA tests of the sensitivity of organisms cultured within the laboratory is excessive. Monthly acute tests, or monthly acute and quarterly chronic tests for such organisms should be sufficient.

Response: EPA believes that the condition of organisms produced in ''in house'' laboratory cultures can change rapidly, requiring monthly verification of test organism sensitivity with the appropriate acute and/or short-term chronic toxicity test(s), using reference toxicants. Without this assessment, changes in the cultures can lead to less precision in the tests. It is sufficient to use a single reference toxicant with one or all test species (e.g., sodium chloride, potassium chloride, sodium dodecyl sulfate, or other suitable substance). The tests can be limited to acute toxicity tests if the laboratory performs only acute tests with effluents and receiving waters. However, EPA does not agree that acute tests can be used instead of short-term chronic tests for the monthly verification of the sensitivity of test organisms to be used in short-term chronic tests with effluents and receiving waters.

Comment: Where effluent and reference toxicant tests are performed concurrently with organisms from the same batch shipped to a laboratory, and only the reference toxicant test is invalid (e.g., for failure to meet acceptability criteria or control chart limits), the permittee should not be required to repeat both the effluent toxicity and reference toxicant tests.

Response: EPA believes that the probability that an effluent toxicity test could be valid when the side-by-side reference toxicant test does not meet acceptability criteria is very slight. Under these circumstances, therefore, the results of both tests are rejected and the tests must be repeated.

If the reference toxicant test meets the acceptability criteria but the results fall outside the control limits, the results of both the reference toxicant and effluent tests should be considered provisional and subject to careful review. Good laboratories that have developed very narrow control limits may be unfairly penalized if test results that fall outside the control limits are rejected. For this reason, the width of the control limits should be considered by the permitting authority in determining if the reference toxicant and effluent toxicity data should be rejected on the basis of the control chart limits.

The requirement for side-by-side reference toxicant tests with shipped organisms could be waived if the test organism supplier provides reference toxicant and control charts data from monthly tests conducted with young from the same source cultures during the previous five-month period, using the same reference toxicants and same toxicity test conditions.

Comment: EPA should provide guidance on the acceptable performance of each reference toxicant (e.g., as it has done with chemical QC samples).

Response: EPA believes that the laboratory conducting the WET tests should derive response data by conducting a range-finding test prior to the definitive test. Accuracy of toxicity test results cannot be ascertained, only the precision of toxicity can be estimated, therefore it is not appropriate to provide such information.

Comment: EPA should provide reference toxicants and standard test organisms.

Response: The Agency is currently divesting itself from the production and distribution of QC materials for chemical methods and transferring those tasks to the private sector under cooperative research and development agreements (CRADAs) authorized by the Federal Technology Transfer Act of 1986, (Pub.L. No. 99–502). However, biological QC materials, such as reference toxicants and reference Artemia cysts, are still available in limited quantity from the Quality Assurance Research Division, Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, OH 45268. Further information can be obtained by writing to the laboratory or calling 513–569–7325.

Adequate supplies of test organisms are currently available from the private sector, and the market place has and is expected to respond quickly to any increased demand for test organisms.

3. Sample Collection, Holding Time and Temperature

a. Sample Containers

Comment: Glass sample containers should be used instead of plastic containers because there is less adsorption of toxics from the samples. However, plastic sample containers would be acceptable if the users are warned of this problem.

Response: The use of plastic containers for collection and shipment of effluent samples is preferred over glass bottles, which are more easily broken during shipment. It must be recognized, however, that the loss of toxics from samples (and possible reduction in toxicity) by adsorption to plastic surfaces may be greater with plastic containers than with glass ones. Prolonged storage of samples in plastic containers before use, therefore, should be avoided to the extent possible.

b. Sample Holding Time and Temperature

Comment: The sample holding time (36 hours) prior to the start of the toxicity test is too restrictive.

Response: EPA believes that 36 hours provides sufficient time to deliver the samples to the performing laboratories in most cases. In the isolated cases where the permittee can document that this delivery time cannot be met, the permitting authority may allow an option for on-site testing, or a variance to extend the holding time. The request for a variance in sample delivery time (directed to the Regional Administrator under 40 CFR 136.4 and 40 CFR 136.5) must include supportive data which show that the toxicity of the effluent sample is not reduced (e.g., because of biodegradation, chemical transformation, volatilization and/or sorption of toxics on the sample container surfaces) by extending the holding time beyond 36 hours. In no case should more than 72 hours elapse between collection and first use of the sample.

Comment: Current guidance on sample collection in the toxicity test manuals does not clearly indicate when sample holding time begins.

Response: EPA agrees and provides the following clarification in the manual. Sample holding time begins when the last grab sample in a series is taken (e.g., when a series of four grab samples are taken over a 24 hours period), or when a 24 hours composite sampling period is completed.

Comment: It is not possible to regularly maintain a sample temperature of 4 °C during sample shipment.

Response: EPA agrees that the requirement to maintain sample temperature at 4 °C may be difficult to achieve. However, the temperature requirement is important to minimize possible loss of toxicity due to chemical transformations and microbial degradation during transit and holding. Sufficient ice should be placed with the samples in the shipping container to ensure that ice is still present when the samples arrive at the laboratory. However, even if ice is present when a sample arrives at the laboratory, the analyst should measure and record the temperature of the samples to confirm that the 4 °C temperature maximum has not been exceeded. In the isolated cases where the permittee or the analyst can document that the 4 °C shipping temperature cannot be met, the permittee can be given the option of on-site testing or can request a variance in sample shipping temperature. The request for a variance must include supportive data to demonstrate that the toxicity of the effluent samples is not reduced when the holding temperature is increased to the level proposed.

4. Toxicity Testing Species

a. Addition of the MICROTOX^R Test System

Comment: Many commenters requested the inclusion of and provided information on a toxicity test known as the MICROTOX^R Luminescent Bacteria Toxicity Test using the organism, Photobacterium phosphoreum. Information supplied included performance characteristics of the method and its use. Commenters urged inclusion of the test because of its alleged simplicity, cost effectiveness, reproducibility, and widespread use. One commenter suggested use of the method for compliance testing, toxicity reduction evaluations, and pretreatment evaluations.

Response: While EPA agrees that MICROTOX^R is a relatively rapid and simple test system that can provide data useful for in-plant toxicity screening, today's rule does not include *any* test methods to measure the toxic effect of effluent on bacteria. Consistent with the public notice in the proposed rule and the test manuals incorporated by reference therein, today's final rule only includes methods that measure toxicity to representative species from certain phylogenetic groups: i.e., fish, invertebrates, and algae. Information available to the Agency does not, at this time, indicate that the MICROTOX^R test system provides an acceptable, sensitive indicator of the toxic effects of effluents to the fish, invertebrates, or algae included in the test methods promulgated today.

The Agency hastens to add, however, that today's rule does not restrict the use of the MICROTOX^R test as an *additional* or supplemental test method for use in states with federally-approved NPDES programs. EPA also notes that tests such as MICROTOX^R may provide the permittee the additional benefit of a diagnostic tool for the purposes of in-plant toxicity screening for the protection of biological (microbial) treatment processes. Under EPA regulations, when a permittee conducts any testing required by the permit using an analytical method approved in 40 CFR part 136, all test results must be reported (40 CFR 122.41(l)(4)(ii)). Thus, a diagnostic test not included in 40 CFR part 136 provides permittees with the opportunity for internal effluent evaluation undisclosed to the permitting authority. The Agency notes, however, that results of any biological testing of ''end-of-pipe'' discharge or receiving waters must be reported in subsequent permit applications.

b. Indigenous (Feral) Test Organisms

Comment: The use of indigenous species from the receiving water should be allowed in effluent toxicity tests.

Response: The use of feral (feral indicates wild) indigenous species from the receiving water is not allowed due to lack of control in the quality of the test organisms, including such factors as range in age, possible previous exposure to contaminants, disease, and injury during collection, all of which might significantly affect organism sensitivity to toxicants, and the precision and reproducibility of the test. However, the above discussion does not mean that EPA is adverse to persons developing credible toxicity methods based on other organisms, including methods based on organisms indigenous to specific surface waters. These toxicity methods would need to include QA/QC provisions that assure a proper level of precision and reproducibility, and would need to use test organisms cultured in a laboratory that are unaffected by environmental stresses. Such methods could be submitted for approval as an alternative test procedure (40 CFR 136.4 (a) and (d)).

c. Supplemental Species

Comment: Some commenters noted that some State laws prohibit the import of non-indigenous species. One commenter noted that the list of recommended test species in the acute toxicity test manual (EPA/600/4–90/027) did not include any test species indigenous to Pacific coastal waters. The commenter provided data from side-by-side testing (Homesimysis costata) suggesting that a west coast test species (that the commenter thought should be included) was at least as sensitive to toxicity as one of the test species recommended in the acute manual. The State of California expressed concern that test methods it had developed and has been including in NPDES permits would be displaced by today's rule.

Response: The species selected by EPA for effluent toxicity tests in the NPDES program represent a ''performance standard'' or indicator of sensitivity to toxicity for a given phylogenetic category. Therefore, to use a species other than the recommended species, the permittee or the permitting authority should provide data from side-by-side testing showing that the proposed substitute test species is at least as sensitive as the recommended test species for that phylogenetic category.

Toxicity test methods will not require use of non-indigenous test organisms when State law prohibits import of such species. However, the toxicity test manuals provide instructions for the disposal of test organisms and, if these instructions are followed, the use of non-indigenous organisms will not result in establishment of populations of these organisms in local waters that will threaten indigenous wildlife.

Appendix B in the acute toxicity test manual (EPA/600/4–90/027F) contains a list of ''supplemental'' test species that may be appropriate for use in acute toxicity testing under certain test conditions. EPA accepts the use of Notropis leedsi (Bannerfish Shiner) in place of Pimephales promelas (Fathead Minnow), if the same test conditions are used, and the use of the mysid, Homesimysis costata, in place of Mysidopsis bahia, with the same test conditions except at a temperature of 12°C, instead of 20°C or 25°C, and a salinity of 32–34‰, instead of 5–30‰), where their use is required test organisms in discharge permits. However, other species on the list are not currently approved for use as recommended species.

California is correct in its conclusion that the standardization of methods by today's rule will displace unapproved methods (for NPDES permits issued after today's rule). In response to this concern, EPA is restricting the applicability of today's rule. The marine chronic tests in today's rule do not apply to discharges into marine waters of the Pacific Ocean. EPA seeks to minimize disruption in the administration of NPDES permit programs in those States with Pacific coastal waters. EPA intends to propose approval of marine chronic methods applicable to colder, Pacific coast waters in the near future. Marine acute west coast WET methods are included in the acute testing manual.

5. Test Conditions

See the SID for response to comments on the following: Dilution water, test temperature and pH, renewal of test solutions, age of test organisms, test duration, feeding before/during the tests, dilution factor, replication, dissolved oxygen and aeration, and the number of effluent concentrations used in tests.

6. Applicability of Tests

a. Criteria for Test Selection

Comment: In initially preparing, and subsequently revising, the toxicity test manuals, EPA failed to establish criteria for toxicity test selection. The toxicity tests proposed by the Agency did not satisfy the criteria for determining adequacy of testing methods.

Response: EPA believes the commenter refers to the criteria described in the EPA report to Congress entitled, ''Availability, Adequacy, and Comparability of Testing Procedures for the Analysis of Pollutants Established Under Section 304(h) of the Federal Water Pollution Control Act,'' EPA/600/9–87/030, September 1988. In that document, EPA compared biological analyses to chemical analyses for the purpose of assessing the adequacy of a given biological method. The document explained the attributes of biological tests that were significant for assessing adequacy: biological detection limits, precision, and applicability.

In toxicity tests, the detection limit is determined by the ''sensitivity'' of the test organisms. The sensitivity of organisms to pollutants is an intrinsic quality, which may vary greatly between species, but also varies somewhat among organisms within the same species, and is affected by the condition or ''health'' of the organisms. Because the sensitivity of the test organisms cannot be ''calibrated'' before each toxicity test, the tests must include standards to ensure data integrity. The final rule promulgated today includes the use of standard ''reference'' toxicants to maintain that integrity.

To assess the precision of biological tests, the EPA report indicated that the methods must account for inherent variability of response and natural variability of within-species sensitivity. The methods in the final rule account for that variability by use of replicate testing; the toxicity methods require that a series of controls be run concurrently with pollutant exposures. These methods also contain criteria for determining the acceptability of data from a toxicity test based on the performance of the control organisms.

The final attribute for assessing the adequacy of biological methods, as discussed in the EPA report, was applicability. The key criterion identified for determining biological test applicability was whether special conditions in the laboratory or a unique laboratory location is required to perform the test. For a test method to be applicable, it must be adaptable to a wide variety of laboratories. Applicability of a biological test depends on the ease with which the test can be performed on a routine basis and the consistency of availability of test organisms. The methods in this rule use readily available test organisms and can be competently performed by laboratories following the QA/QC guidelines described in the manuals.

EPA disagrees with the commenter's central proposition that to establish applicability, each method requires inter-laboratory validation. In validating each method, EPA considered intra-laboratory testing. For those tests for which EPA further relies on interlaboratory testing, comparable coefficients of variation (precision) were achieved. Based on the high degree of correlation between coefficients of variation between intralaboratory tests and interlaboratory tests, EPA is confident in its reliance on intralaboratory studies to establish the applicability of the test methods to a wide variety of laboratories.

b. Ceriodaphnia Test

Comment: There are problems with the Ceriodaphnia dubia short-term chronic toxicity test as evidenced by the low rate of successful test initiation (61%) and test completion (56%) in the Battelle Columbus (1987) round robin.

Response: The Ceriodaphnia dubia short-term chronic toxicity test method (especially the diet) has been significantly improved since the Battelle round robin, as evidenced by the higher rates of successful test initiation and completion in a round robin supervised by EPA Region 4 in 1989 (EPA/505/2–90–001). In this inter-laboratory study, 36 (80%) of 45 tests were successfully completed. The endpoints (No Observed Effect Concentrations, or NOECs) of 35 of the 36 tests, fell on two adjacent concentrations. Also, an interlaboratory study of the Ceriodaphnia dubia 7-day chronic test conducted by the San Francisco Bay Regional Water Quality Control Board (Environ. Toxicol. Chem. 10:143–145, 1991), resulted in a coefficient of variation of 29%, demonstrating good precision.

c. Test Validation in Receiving Waters

Comment: The relationship between laboratory data on effluent toxicity and effects on aquatic life in receiving waters has not been established by the Agency.

Response: Numerous freshwater and marine site studies have been made to determine this relationship (see the Technical Support Document, EPA/505/2–90–001, 1991). These studies comprise a large data base specifically collected to determine the validity of toxicity tests to predict receiving water community impacts. The results of these studies clearly show the direct relationship between laboratory data on effluent toxicity and its adverse effect on aquatic life in receiving water.

d. Stage of Development of Toxicity Test Methods

Comment: EPA toxicity test methods are still in a developmental stage, and have not been properly peer reviewed.

Response: The acute toxicity tests have been widely used in the public and private sector for the past two decades, and the short-term chronic tests have been in general use in the NPDES permit program for six to nine years. The toxicity test manuals were widely distributed to expert peer reviewers in academia, major industries and trade organizations, consulting firms, and government agencies prior to publication, and were subject to further review during the public comment period following issuance of the Proposed Rule. Codification of these methods was proposed December 4, 1989, because they were considered adequately standardized for use in the NPDES Program. Furthermore, these methods have been published in highly respected, peer reviewed journals.

e. Ability of Laboratories to Perform the Arbacia and Champia Tests

Comment: Few laboratories have the capability to perform some of the short-term chronic toxicity tests, such as the Champia and Arbacia tests.

Response: EPA agrees that the number of laboratories with the capability of conducting Champia and Arbacia tests is currently limited. However, as the requirements for use of these organisms in the NPDES permits program increases, EPA's past experience indicates that the resulting increase in market demand will result in an increase in the number of laboratories that are capable of performing these tests.

C. Statistical Analysis of Results of Toxicity Tests with Fish and Other Aquatic Life

Twenty-four sets of comments were received on statistical methods for toxicity data analysis. Some of the comments and responses are discussed below and the rest are in the SID.

Comment: The use of Coefficients of Variation (CVs) of point estimates, such as the LC50, and the range in NOEC's and/or LOEC's (Lowest Observed Effect Concentration) are an inappropriate measure of test precision. The use of the NOEC and LC50 endpoints for precision estimates is not consistent with the calculation of precision of chemical methods. Therefore comparison of toxicity test precision to chemical method precision is inappropriate.

Response: In the case of toxicity tests, test precision is a measure of agreement of successive test results. Toxicity results are expressed in terms of a point estimate, such as the LC1 (Concentration at which 1% of the organisms die), LC50, IC25, or a NOEC-LOEC pair derived from hypothesis testing. The CV is a widely used and acceptable method of expressing variability (precision) of point estimates from toxicity tests, such as LC50's, and is comparable to the calculation of precision of chemical methods. However, NOEC's and LOEC's are not point estimates, and it is not possible to express the precision of these values in terms of a similar statistic. In this case, precision can only be described by listing the NOEC-LOEC interval for each test, and indicating the range in these values. For a more general discussion of statistical analysis using hypothesis testing versus point estimates, see page 11 of the ''Technical Support Document for Water Quality-based Toxics Control'', EPA/505/2–90–001, PB91–127415, March 1991.

Comment: The choice of statistical methods is not justified in the guidance documents.

Response: EPA recognizes that the statistical methods recommended in the toxicity test methods manuals are not the only possible methods of statistical analysis. In selecting the methods for the manuals, EPA statisticians evaluated and considered many other analyses. The methods finally selected were chosen, among other reasons, because there are: (1) Well tested and well documented; (2) applicable to most different toxicity test data sets for which they are recommended, but still powerful; (3) most easily understood by non-statisticians; and (4) amenable to use without a computer, if necessary.

Comment: Statistical analysis of toxicity test results is very complicated and should require the review and evaluation of a qualified statistician.

Response: The statistical analyses recommended in the three toxicity test manuals (acute, freshwater short-term chronic, and marine short-term chronic) cited in the proposed rule had been subjected to extensive peer review in the private and public sectors prior to their proposal. The reviewers included EPA statisticians, government contract statisticians, and statisticians from academia. EPA believes that this constitutes an objective peer review of the recommended statistical analyses by qualified statisticians. In addition, the methods have also been published in highly regarded peer reviewed journals. The manuals also provide detailed, stepwise guidance for the statistical analyses of individual test results.

Comment: It is not always obvious that an effect level that is determined to be statistically significant is also biologically significant.

Response: The implied question, concerning the ''biological significance'' of (threshold) ''statistically significant' occurrences of adverse biological effects observed in toxicity tests, is an implementation question, and is not addressed in this rulemaking. However, in a related area, the Agency's water quality criteria for fish and other aquatic life are based on ''safe concentrations'' of toxicants which are defined as the highest concentration of toxicant not showing a ''statistically significant'' occurrence of an adverse biological effect (NOEC) with the assumption that a ''statistically significant'' reduction in an important biological response will adversely affect the success of the organisms and, therefore, is a ''significant''biological effect.

Comment: Only surviving adult females should be used for *Ceriodaphnia* reproduction analysis.

Response: The exclusion of reproduction data from females that do not survive to the end of the test would bias the results in favor of the organisms that are more tolerant to pollution. Therefore, EPA believes that it is best to use the reproduction data from all the test organisms in the analysis, except for those from test concentrations that have significantly greater mortality than the test controls. Data from the latter are not included in the determination of the reproductive endpoint.

Comment: More guidance is needed in selecting alternative statistical methods when replicate values are found to reflect wide variation in survival values.

Response: The freshwater and marine short-term chronic toxicity test methods manuals contain detailed flowcharts on the recommended statistical analyses. It is not possible to provide guidelines to cover all contingencies of toxicity data analysis. Therefore these recommendations were intended to cover most types of data that would occur in toxicity testing. As stated in the manuals, EPA advises analysts to consult with a qualified statistician for cases that are not covered by the recommended analyses.

Comment: The NOEC is not a meaningful endpoint and is too dependent upon the concentration intervals utilized in the test.

Response: EPA recognizes that the NOEC is dependent upon the concentration intervals used in a test, but disagrees that it is not a meaningful endpoint. The NOEC is the most commonly used endpoint in chronic toxicity tests and, prior to the development of the Linear Interpolation (or Inhibition Concentration) Method, was the only endpoint available for determination of ''safe concentrations.'' The Agency's water quality criteria for fish and other aquatic life are based on ''safe concentrations'' of toxicants which are defined as the highest concentration of toxicant not causing a ''statistically significant'' difference in biological response (such as growth or reproduction). Use of the NOEC in effluent and receiving water toxicity tests is described in the Agency's ''Technical Support Document for Water Quality-based Toxics Control'', EPA/505/2–90–001, PB91–127415, March 1991.

Comment: Statistical methods which require log or geometric dilution series should be discussed.

Response: The use of graphical method to determine the LC50 is recommended by EPA (EPA/600/4–90/027F) only when the response is ''all or nothing,'' i.e., only two levels of response—zero mortality at lower test concentrations and 100% mortality at higher test concentrations. Results of this type occur in a high proportion (60% or more) of effluent toxicity tests. When such an all or nothing response occurs, the results are not amenable to statistical analysis. According to Finney, a leading authority on the analysis of acute toxicity data, a graphically-derived estimate of the LC50, which employs the known logarithmic relationship between toxicant concentration and mortality, is ''the only reasonable approach'' (Finney, D.J. 1985. Arch. Toxicol. 56:215–218). However, the graphical method is unable to provide confidence limits for the endpoints. When partial mortalities occur at one or more test concentrations, EPA recommends the use of the Trimmed Spearman-Karber or Probit Analysis.

Comment: Regression (point estimation) should be used as an interpretive tool for the data rather than exclusively using a ''mean'' system.

Response: The selection of the statistical analysis (in the two short-term chronic manuals) is dependant upon the intended use of the data. For example, in the NPDES permitting program, the recommended statistical procedure is the point estimate, because confidence intervals can be placed around the point estimate.

Comment: There must be an adequate concentration response or the test is of little value in calculation of a LC50 or EC50.

Response: Data from toxicity tests frequently show an all or nothing response, and in these instances the appropriate statistical procedure to estimate the LC50 are the Graphical Method and/or the Trimmed Spearman Karber. The alternative LC50 statistical procedures do require that the data show a dose response above and below the LC50 concentration.

D. Implementation and Miscellaneous Issues

Approximately 23 comments were related to the application and implementation of EPA Policy on the Water Quality-Based Toxics Control Program and other issues which were not specifically applicable to the technical methods contained in this rulemaking. These comments are addressed in the SID which is part of the administrative record for this rulemaking.

VI. Regulatory Analyses

A. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a written statement to accompany rules where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of such a rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely affected by the rule.

EPA estimates that the costs to State, local, or tribal governments, or the private sector, from this rule will be less than $100 million. This rulemaking should have minimal impact, if any, on the current regulatory burden imposed on NPDES permittees because the rulemaking merely standardizes methods (that are currently contained in guidance) to determine compliance with whole effluent toxicity limitations required under existing regulations. EPA has determined that an unfunded mandates statement therefore is unnecessary. Similarly, the standardized methods in today's rule do not establish any regulatory requirements that might significantly or uniquely affect small governments; any such requirements would have been established previously in NPDES regulations providing for inclusion of whole effluent toxicity limitations.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine whether a regulation will significantly affect a substantial number of small entities so as to require a regulatory analysis. The regulation requires no new reports beyond those now required. The analytical techniques approved here either can be handled by small facilities, or are widely available by contract at a reasonable price. Therefore, in accordance with 5 U.S.C. 605(b), I hereby certify that this rule will not have significant adverse economic impact on a substantial number of small facilities.

C. Paperwork Reduction Act

This rule does not impose any additional information requirements on respondents, and consequently is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

D. Executive Order 12866

Under Executive Order 12866, EPA must judge whether a regulation is ''major'' and therefore subject to the requirement of a ''Regulatory Impact Analysis.'' This regulation is not major for the following reasons:

1. The rule only prescribes analytical methods and sample handling requirements that ensure a uniform measure of pollutants across all wastewater discharges within minimum acceptance criteria. The rule itself does not require that analyses actually be performed. Other existing rules require such analyses in certain circumstances. The purpose is to ensure that the quality of the environmental monitoring data meets certain minimum standards.

2. The impact of this regulation will be far less than $100 million. The regulation affects unit monitoring cost for the NPDES programs, e.g., effluent guidelines regulations and the NPDES implementation regulations, and the pretreatment programs. However, the rule does not itself impose those costs. The monitoring costs for other programs are considered in the rulemaking for each program.

Under Executive Order 12866 The Office of Management and Budget waived review on October 26, 1994.

The range in cost for the acute and chronic methods, on a per test basis, is approximately $200.00–$2800.00. Clustered at the low end of the cost range estimate are the acute 96 hour test methods, and at the higher end the short-term chronic test methods. The majority of testing laboratories charged between $200.00–$1500.00 per test. EPA believes that the overall range of cost per test, particularly at the high end, will decrease as a result of promulgation of the methods. This is because the number of approved tests will be limited to those in the rule, as opposed to the many variations of each test method now being conducted. Experience has shown that the cost of the tests has decreased over time as the testing laboratories have become more competent in performing the different test methods. EPA estimates that the overall cost will drop by 20% (ranging from $160.00–$2240.00 for all labs, and $160.00–$1200.00 for the majority of labs) as a result of promulgation of this rule.

VII. Materials Incorporated by Reference Into 40 CFR Part 136

1. USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition, August 1993. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio (EPA/600/4–90/027F). Table 1A, Note 7.

2. USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Third Edition, July 1994. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. (EPA/600/4–91/002). Table 1A, Note 9.

3. USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Second Edition, July 1994. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. (EPA/600/4–91/003). Table 1A, Note 10.

VIII. Public Availability of Materials To Be Incorporated by Reference

Copies of the documents incorporated by reference in today's rulemaking will be available to the general public from the following sources at no cost:

National Center for Environmental Publications and Information (NCEPI): available 24 hours a day, 7 days a week; (513) 489–8190, or FAX (513) 489–8695, identifying the name of the document or the publication number listed in section VII of this preamble. Available formats: paper copies and 3½ inch or 5 inch discs.

EPA Office of Water Resource Center: available 24 hours a day, 7 days a week; (202) 260–7786. Contract staff will assist caller in identifying a document from document title, publication number, or a description of the subject matter. Available formats: paper copies and 3½ inch or 5 inch discs.

EPA Regional Office Libraries: EPA has 10 Regional offices around the country, each with a publically accessible library. Copies of these documents can be viewed and copied at these EPA Regional libraries. EPA Region I, JFK Federal Building, One Congress Street, Boston, MA 02203, (617) 565–3420; EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–3000; EPA Region 3, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–9800; EPA Region 4, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347–4727; EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604–3507, (312) 353–2000; EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, TX 75202–2733, (214) 665–6444; EPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7000; EPA Region 8, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 293–1603; EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1305; EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1200.

Internet, EPA operates a ''public access server,'' also known as ''Earth 1,'' through which EPA will include all of the ways that copies of the test methods manuals are available. The Office of Water will put the directions about electronic retrieval of the test methods manuals on EPA's Internet ''homepage.'' By doing so, persons interested in electronic copies of the methods manuals may obtain copies either (1) retrieving the documents from EPA's file transfer protocol (FTP) site on the Internet at ftp.epa.gov or gopher.epa.gov (2) retrieving the documents by dial-in access at 919–558–0335, or (3) by requesting floppy disks from NCEPI, including requests through the Office of Water Resource Center. EPA would explain the limitations some users may encounter trying to print out diagrams, tables, charts and graphs, which would may require special ''read'' software. Later this year, the Office of Water will have its own Internet ''homepage'' which will include all Office of Water rules and information on how to obtain copies of all technical support documents.

By the end of 1995, EPA will be a participant in the Government Information Locator Service (GILS) consistent with Office of Management and Budget requirements. GILS is a ''list of lists'' on the Internet, of all U.S. Government publications, describing the publication and how to get it. The Office of Water will describe the means of electronic access to the whole effluent toxicity test methods manuals through the GILS system.

Public Libraries, A description of the whole effluent toxicity methods final rule and the test methods manuals has been placed in the combined catalogues of the Online Computer Library Center (OCLC) in Columbus, Ohio, available to all member libraries across the country (approximately 13,000). This summary will facilitate public access through interlibrary loans from the Regional EPA libraries. Through OCLC, EPA has placed the summary and access information in the Online Library System. Finally, EPA has provided the national association of public libraries with a summary of the whole effluent toxicity methods rule and the test methods manuals, as a way of emphasizing their availability through this means.

Copies of these documents will also be available for viewing and copying at the State Libraries: Alabama Library Association, 400 S. Union Street, Suite 255, Montgomery, AL 36104; Alaska Library Association, PO Box 81084; Fairbanks, AL 99708–1084; Arizona State Library Association, 13832 32d. Street, Phoenix, AZ 85032; Arkansas Library Association, 1100 N. University, #109, Little Rock, AR 72204; California Library Association, 717 K. Street, Suite 300, Sacramento, CA 95814–3477; Colorado Library Association, 114 Pinecliffe Road, Pinecliffe, CO 80471; Connecticut Library Association, Box 1016, Hartford, CT 06360; Delaware Library Association, PO Box 816, Wilmington, DE 19903; District of Columbia Library Association, PO Box 14177, Benjamin Franklin Station, Washington, DC 20044; Florida Library Association, 1133 W. Morse Blvd., Suite 201, Winter Park, Fl 32789–3788; Georgia Library Association, Young Harris College, PO Box 39, Young Harris, GA 30582; Guam Library Association, PO Box 22515 GFM, Barrigada, GU 96921; Hawaii Library Association, PO Box 4441, Honolulu, HI 96814–4441; Idaho Library Association, Boise State University, Boise, ID 83725; Illinois Library Association, 33 W. Grand Avenue, #301, Chicago, IL 60610; Indiana Library Federation 6408 Carrollton Avenue, Indianapolis, IN 46220–1615; Iowa Library Association, 823 Insurance Exchange Building, Des Moines, IA 50309; Kansas Library association, South Central Kansas Library System, 901 N. Main, Hutchinson, KS 67501–4401; Kentucky Library Association, 1501 Twilight Tr., Frankfort, KY 40601; Louisiana Library Association, PO Box 3058, Baton Rouge, LA 70821; Maine Library Association, Community Drive, Augusta, ME 04330; Maryland Library Association, 400 Cathedral Street, 3d Floor, Baltimore, MD 21201; Massachusetts Library Association, Countryside Offices 707 Turnpike St., North Andover, MA 08145; Michigan Library Association, 1000 Long Blvd. Suite 1, Lansing, MI 48911; Minnesota Library Association, 1315 Lowrey Avenue, N. Minneapolis, MN 55411–1398; Mississippi Library Association, PO Box 20488, Jackson, MS 39209–1448; Missouri Library Association, 11306 Business 63 South, Suite B, Columbia, MO 65201; Montana Library Association, 507 Fifth Avenue, Helena, MT 59601–4359; Nebraska Library Association, 5302 S. 75th Street, Ralston, NE 68127–3903; Nevada Library Association, Elko County Public Library, 720 Court Street, Elko, NV 89801; New Hampshire Library Association, Franklin Public Library, 310 Central Street, Franklin, NH 03235; New Jersey Library Association, 4 W. Lafayette, Trenton, NJ 08608; New Mexico Library Association, San Juan College Library, 4601 College Avenue, Farmington, NM 87401; New York Library Association, 252 Hudson Avenue, Albany, NY 12210; North Carolina Library Association, Southeastern Technical Asst. Center, 2013 Lejeune Blvd., Jacksonville, NC 28546–7027; North Dakota Library Association, University of North Dakota-Lake Region, 1800 N. College Drive, Devil's Lake, ND 58301; Ohio Library Council, 35 E. Gay Street, Columbus, OH 43215; Oklahoma Library Association, 300 Hardy Drive, Edmond, OK 73013; Oregon Library Association, 1270 Chemeketa Street, NE, Salem, OR 97301; Pennsylvania Library Association, 1919 N. Front Street, Harrisburg, PA 17110; Rhode Island Library Association, 300 Richmond Street, Providence, RI 02903; South Carolina Library Association, Rt 2, Box 139F, Denmark, SC 29042; South Dakota Library Association, PO Box 673, Pierre, SD 57501; Tennessee Library Association, Memphis State University Library, Memphis, TN 30152; Texas Library Association, 3355 Bee Cave Road, #401, Austin, TX 78746; Utah Library Association, 365 Emory, Salt Lake City, UT 84101; Vermont Library Association, Box 803, Burlington, VT 05402–0803; St. Thomas/St. John Library Associationa, University of Virgin Islands, St. Thomas, VI 00802; St. Croix Library Association, PO Box 306164, Veteran's Drive Station, Charlotte Amalie, VI 00803; Virginia Library Association, 669 S. Washington Street, Alexandria, VA 22314–4109; Washington Library Association, Ft. Vancouver Regional Library, 1007 E. Mill Plain Blvd. Vancouver, WA 98603–3504; West Virginia Library Association, West Virginia Library Community, Science and Culture Center, Charleston, WV 35305; Wisconsin Library Association, 4785 Hayes Road, Madison, WI 53704–2764; Wyoming Library Association, Sweetwater County Library, PO Box 550, Green River, WY 82935.

A limited number of copies will be available from the EPA Regional offices, and the State NPDES permitting offices. Finally, after the first printing, hard copies will be available from the National Technical Information Service (NTIS) in Springfield, Virginia for $31.00, $31.00, and $45.00, respectively for ''Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms, Second Edition'' July 1994, EPA/600/4–91/003, ''Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, Third Edition'' July 1994, EPA/600/4–91/002, and ''Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fourth Edition'' August 1993, EPA/600/4–90/027F. (NTIS is an organization within the U.S. Department of Commerce.)

EPA is also notifying the following groups of the availability of these documents: International Association of Environmental Testing Laboratories; American Society of Testing Materials; Society of Environmental Toxicology and Chemistry; American Chemical Society; Water Environment Federation; Association of Metropolitan Sewerage Agencies; Association of Analytical Chemists; and the Discharge Monitoring Requirement Quality Assurance Program.

IX. References

Federal Register: U.S. Environmental Protection Agency. Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants, 49 FR 9016; Mar. 9, 1984.

Anderson, S.L. and T.J. Norberg-King. 1991. Precision of ShortTerm Chronic Toxicity Tests in the Real World. Environmental Toxicology and Chemistry 10(2):143–145.

Finney, D.J. 1985. The Median Lethal Dose and its Estimation. Arch. Toxicol. 56:215–218.

U.S. Environmental Protection Agency. July 1994. Whole Effluent Toxicity (WET) Control Policy. EPA 833–B–94–002.

U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control, March 1991, EPA/505/2–90/001; PB91–127415.

U.S. Environmental Protection Agency. September 1988. Report to Congress: Availability, Adequacy, and Comparability of Testing Procedures for the Analysis of Pollutants Established Under Section 304(h) of the Federal Water Pollution Control Act. EPA/600/9–87/030.

List of Subjects in 40 CFR Part 136

Environmental protection, Water pollution control, Incorporation by reference.

Dated: October 3, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 136 of title 40 of the Code of Federal Regulations is amended as follows:

PART 136—[AMENDED]

1. The authority citation for part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307 and 501(a), Pub. L. 95–217, Stat. 1566, et seq. (33 U.S.C. 1251, et seq.) (the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.

2. In § 136.3(a), Table IA is revised to read as follows:

§ 136.3 Identification of test procedures.

* * * * *

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method [1]	EPA	Standard methods, 18th Ed.	ASTM	USGS
Bacteria:					
1. Coliform (fecal), number per 100 mL.	Most Probable Number (MPN), 5 tube 3 dilution, or Membrane filter (MF) [2], single step	p. 132 [3] p. 124 [3]	9221C E [4] 9222D [4]	....	B–0050–85 [5]
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or MF, single step [6]	p. 132 [3] p. 124 [3]	9221C E [4] 9222D [4]	....	
3. Coliform (total), number per 100 mL.	MPN, 5 tube, 3 dilution, or MF [2] single step or two step	p. 114 [3] p. 108 [3]	9221B [4] 9222B [4]	....	B–0025–85 [5]
4. Coliform (total), in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or MF [2] with enrichment	p. 114 [3] p. 111 [3]	9221B [4] 9222(B+B.5c) [4]	....	
5. Fecal streptococci, number per 100 mL.	MPN, 5 tube, 3 dilution MF [2], or Plate count	p. 139 [3] p. 136 [3] p. 143 [3]	9230B [4] 9230C [4]	....	B–0055–85 [5]
Aquatic Toxicity:					
6. Toxicity, acute, fresh water organisms, LC50, percent effluent.	Daphnia, Ceriodaphnia, Fathead Minnow, Rainbow Trout, Brook Trout, or Bannerfish Shiner mortality.	Sec. 9 [7]		....	
7. Toxicity, acute, estuarine and marine organisms, LC50, percent effluent.	Mysid, Sheepshead Minnow, or Menidia spp. mortality.	Sec. 9 [7]		....	
8. Toxicity, chronic, fresh water organisms, NOEC or IC25, percent effluent.	Fathead minnow larval survival and growth Fathead minnow embryo-larval survival and teratogenicity. Ceriodaphnia survival and reproduction Selenastrum growth	1000.0 [8] 1001.0 [8] 1002.0 [8] 1003.0 [8]		....	
9. Toxicity, chronic, estuarine and marine organisms, NOEC or IC25, percent effluent.	Sheepshead minnow larval survival and growth Sheepshead minnow embryo-larval survival and teratogenicity. Menidia beryllina larval and growth Mysidopsis bahia survival, growth, and fecundity Arbacia punctulata fertilization Champia parvula reproduction	1004.0 [9] 1005.0 [9] 1006.0 [9] 1007.0 [9] 1008.0 [9] 1009.0 [9]		....	

Notes to Table IA:

[1] The method must be specified when results are reported.

[2] A 0.45 um membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. EPA/600/8–78/017.

[4] APHA. 1992. Standard Methods for the Examination of Water and Wastewater. American Public Health Association. 18th Edition. Amer. Publ. Hlth. Assoc., Washington, DC.

[5] USGS. 1989. U.S. Geological Survey Techniques of Water-Resources Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples, U.S. Geological Survey, U.S. Department of Interior, Reston, Virginia.

[6] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[7] USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. August 1993, EPA/600/4–90/027F.

[8] USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Third Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency USEPA. 1994, Cincinnati, Ohio (July 1994, EPA/600/4–91/002).

[9] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Second Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio (July 1994, EPA/600/4–91/003). These methods do not apply to marine waters of the Pacific Ocean.

3. Section 136.3(b) is amended by revising references (2), (6), and (11) and by adding references (34), (38), and (39) to read as follows:

§ 136.3 Identification of test procedures.

* * * * *

(b) * * *

References, Sources, Costs, and Table Citations

* * * * *

(2) USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. EPA/600/8–78/017. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. PB–290329/AS. Cost: $36.95. Table IA, Note 3.

* * * * *

(6) American Public Health Association. 1992. Standard Methods for the Examination of Water and Wastewater. 18th Edition. Amer. Publ. Hlth. Assoc., 1015 15th Street NW, Washington, DC 20005. Cost: $160.00. Table IA, Note 4.

* * * * *

(11) USGS. 1989. U.S. Geological Survey Techniques of Water-Resources Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples, U.S. Geological Survey, U.S. Department of the Interior, Reston, Virginia. Available from: USGS Books and Open-File Reports Section, Federal Center, Box 25425, Denver, Colorado 80225. Cost: $18.00. Table IA, Note 5.

* * * * *

(34) USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition, December 1993. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio (EPA/600/4–90/027F). Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. PB–91–167650. Cost: $31.00. Table IA, Note 17. See changes in the manual, listed in Part V of this rule.

* * * * *

(38) USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Third Edition. July 1994. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. (EPA/600/4–91/002). Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. PB–92–139492. Cost: $31.00. Table IA, Note 8.

(39) USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Second Edition, July 1994. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. EPA/600/4–91/003. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Publ. No. PB–92–139484. Cost: $45.00. Table IA, Note 9.

4. In § 136.3(e), Table II is amended by revising the entry for ''Table IA-Bacteria Tests:'' and adding an entry for ''Table IA-Aquatic Toxicity Tests:'' and by revising footnote 1 and adding footnote 16 to read as follows:

TABLE II. REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter No./name	Container [1]	Preservation [2],[3]	Maximum holding time [4]
Table IA—Bacteria Tests:			
1–4 Coliform, fecal and total	P,G	Cool, 4C, 0.008% $Na_2S_2O_3$ [5]	6 hours.
5 Fecal streptococci	P,G	Cool, 4C, 0.008% $Na_2S_2O_3$ [5]	6 hours.
Table IA—Aquatic Toxicity Tests:			
6–10 Toxicity, acute and chronic	P,G	Cool, 4C [16]	6 hours.
* * *	*	* *	*

[1] Polyethylene (P) or glass (G). For microbiology, plastic sample containers must be made of sterilizable materials (polypropylene or other autoclavable plastic).

[2] Sample preservation should be performed immediately upon sample collection. For composite chemical samples, each aliquot should be preserved at the time of collection. When use of an automatic sampler makes it impossible to preserve each aliquot, then chemical samples may be preserved by maintaining at 4C until compositing and sample splitting is completed.

[3] When any sample is to be shipped by common carrier or sent through the United States Mails, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR Part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirements of Table II, the Office of Hazardous Materials, Transportation Bureau, Department of Transportation, has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric Acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater); Nitric Acid (HNO_3) in water solutions of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric Acid (H_2SO_4) in water solutions of 0.35% or less (pH about 1.15 or greater); and Sodium Hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed in the table are the maximum times that samples may be held before analyses and still be considered valid. Samples used for toxicity tests are to be used for test initiation or for renewal of test solutions within 36 h of collection as grab samples, or within 36 hours of the collection of the last sample of the composite. Samples for bacteria or chemical analysis may be held for longer periods than specified in this table only if the permittee or monitoring laboratory has data on file to show that the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under Para. 136.3(e). Some samples may not be stable for the maximum time period given in the table. A permittee or monitoring laboratory is obligated to hold the samples for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. See Para. 136.3(e) for details. The term ''analyze immediately'' usually means within 15 minutes or less of sample collection.

[5] Should only be used in the presence of residual chlorine.

* * * * * * *

[16] Sufficient ice should be placed with the samples in the shipping container to ensure that ice is still present when the samples arrive at the laboratory. However, even if ice is present when the samples arrive, it is necessary to immediately measure the temperature of the samples and confirm that the 4C temperature maximum has not been exceeded. In the isolated cases where it can be documented that this holding temperature can not be met, the permittee can be given the option of on-site testing or can request a variance. The request for a variance should include supportive data which show that the toxicity of the effluent samples is not reduced because of the increased holding temperature.

[FR Doc. 95–25348 Filed 10–13–95; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32 and 36

[DA 95–2036]

Reporting Requirements on Video Dialtone Costs and Jurisdictional Separations for Local Exchange Carriers Offering Video Dialtone Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On September 29, 1995, the Bureau issued a Memorandum Opinion and Order (MO&O) that adopted reports for local exchange carriers offering video dialtone service. The reports will enable the Commission, State regulatory agencies, local exchange carriers (''LEC''), and other interested parties to analyze LECs' video dialtone investment, revenue, and costs. Specifically, the data will allow the Commission to monitor the implementation of video dialtone service, to assist the Commission in ensuring that local telephone service ratepayers do not absorb any of the costs of a LEC's video dialtone operations, to track the impact of video dialtone on jurisdictional separations and local telephone rates, and to aid the Commission in its tariff review process.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Timothy Peterson, Common Carrier Bureau, Accounting and Audits Division, (202) 418–0810.

SUPPLEMENTARY INFORMATION: In the MO&O the Bureau addressed the issues raised by the parties in response to its June 23, 1995, Order Inviting Comments that solicited comment on the proposed content and format of the video dialtone reporting requirements.

Comments were filed by local exchange carriers, the cable industry and representatives of the states. Generally, the local exchange carriers believed that the reporting requirements were overly burdensome. The cable industry and representatives of the states believed that the reporting requirements should be expanded to include additional data. In response to the comments of the parties, the Bureau revised its original proposal to eliminate certain data that it determined were not essential to meet the Commission objectives.

FCC Report 43–09A was adopted by the Common Carrier Bureau in the Memorandum Opinion and Order released September 29, 1995 to establish reporting requirements on video dialtone costs for local exchange carriers offering video dialtone service. The report is prescribed for every local exchange carrier that has obtained Section 214 authorization from the Commission to provide video dialtone trials or commercial services.

Affected carriers shall file by June 30, September 30, and December 31 of each year the report for the previous quarter. The initial report will be filed on the last day of the calendar quarter after the end of the calendar quarter in which a carrier received Section 214 authorization. The report shall be filed on a study area basis.

FCC Report 43–09A provides a quarterly report of wholly dedicated and shared video dialtone investment, expense, and revenue captured in a carrier's subsidiary accounting records. The report line items generally follow those provided in existing FCC Report 43–01, ARMIS Quarterly Report, with minor exceptions. The report columns identify data for each line item by dedicated video dialtone costs and revenues, shared costs and revenues, and video dialtone's portion of shared costs and revenues.

FCC Report 43–09B was adopted by the Common Carrier Bureau to establish reporting requirements on video dialtone costs and jurisdictional separations for local exchange carriers offering video dialtone service. The report is prescribed for every local exchange carrier that has obtained Section 214 authorization from the Commission to provide video dialtone trials or commercial services.

Affected carriers shall file by March 31 of each year the report for the fourth calendar quarter. The report shall be filed on a study area basis.

FCC Report 43–09B provides a fourth quarter report of video dialtone investment, expense, and revenue disaggregated by regulated and nonregulated classification and by jurisdictional categories. The reports summarize the impact of video dialtone on the interstate and intrastate jurisdictions and local telephone rates. The report line items generally follow those provided in existing FCC Report 43–01, ARMIS Quarterly Report, with minor exceptions. The report columns identify data for each line item by total costs and revenues, dedicated video dialtone costs and revenues, shared costs and revenues, video dialtone's portion of shared costs and revenues, total video dialtone costs and revenues, video dialtone's percentage of total costs and revenues, nonregulated and nonregulated video dialtone costs and revenues, and video dialtone costs and revenues subject to separations and those allocated to the intrastate and interstate jurisdictions. These reporting requirements have been approved by OMB under OMB control number 3060–0680.

Complete text of the Memorandum Opinion and Order is available for inspection and copying in the Accounting and Audits Division public reference room, 2000 L Street NW., Suite 812, Washington DC.

Copies are also available from International Transcription Service, Inc., at 2100 M Street NW., Suite 140, Washington, DC 20037, or call (202) 857–3800.

List of Subjects

47 CFR Part 32

Uniform System of Accounts.

47 CFR Part 36

Jurisdictional separations procedures, Telephone.

William F. Caton,

Acting Secretary, Federal Communications Commission.

[FR Doc. 95–25571 Filed 10–13–95; 8:45 am]
BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 60, No. 199
Monday, October 16, 1995

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206–AG88

Pay Under the General Schedule; Locality Pay Areas for 1997

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to remove three metropolitan areas from the ''Rest of U.S.'' locality pay area and establish three new locality pay areas in January 1997 corresponding to these metropolitan areas. The three metropolitan areas affected by this proposed regulation are the following: (1) Milwaukee-Racine, WI; (2) Minneapolis-St. Paul, MN–WI; and (3) Pittsburgh, PA. These proposed changes are based on a recommendation of the Federal Salary Council. The purpose of this notice is to solicit public comments on the boundaries of locality pay areas recommended by the Federal Salary Council before the President's Pay Agent makes a final determination on this matter.

DATES: Comments must be received on or before November 15, 1995.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415 (FAX: (202) 606–0824).

FOR FURTHER INFORMATION CONTACT: Jeanne D. Jacobson, (202) 606–2858 or FAX: (202) 606–0824.

SUPPLEMENTARY INFORMATION: Section 5304(a)(1) of title 5, United States Code, provides that locality payments shall be payable within each locality determined to have a pay disparity greater than 5 percent. Section 5304(f)(1) authorizes the President's Pay Agent (consisting of the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to provide for such pay localities as the Pay Agent considers appropriate. In so doing, the Pay Agent must give thorough consideration to the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay and representatives of Federal employee organizations. Members of the Federal Salary Council are appointed by the President and meet regularly to consider issues related to the locality pay system for General Schedule employees.

In late 1994, the President's Pay Agent adopted the recommendations of the Federal Salary Council concerning locality pay areas for 1995 in their entirety. These recommendations resulted in the establishment of a total of 27 locality pay areas consisting of 26 areas corresponding to Metropolitan Statistical Areas (MSA's) or Consolidated Metropolitan Statistical Areas (CMSA's), including certain ''areas of application'' contiguous to 2 CMSA's, plus 1 area composed of the ''Rest of U.S.'' (See 59 FR 67605, December 30, 1994, and 5 CFR 531.603(b).)

Starting with the January 1996 locality payments, 5 U.S.C. 5304(d)(1) requires the Pay Agent to make recommendations to the President no later than 13 months before the start of the calendar year for which the locality payments are paid. Therefore, the locality pay areas established by the Pay Agent for the 1995 locality payments are also applicable to the locality payments authorized for 1996.

At its meeting on September 28, 1995, the Federal Salary Council recommended the removal of three metropolitan areas from the ''Rest of U.S.'' locality pay area and the establishment of three new locality pay areas corresponding to these metropolitan areas in January 1997. The MSA's and CMSA's affected by this recommendation are the following: (1) Milwaukee-Racine, WI; (2) Minneapolis-St. Paul, MN–WI; and (3) Pittsburgh, PA. The Bureau of Labor Statistics (BLS) conducted additional local salary surveys in 1994–95 in these areas at the direction of the Pay Agent following an earlier recommendation of the Federal Salary Council, and these surveys showed that the pay disparity in each of these areas was greater than in the ''Rest of U.S.'' locality pay area. These 3 new locality pay areas would be in addition to the 27 locality pay areas established for the 1995 and 1996 locality payments.

At the direction of the President's Pay Agent, BLS also conducted local salary surveys in 1994–95 in the Phoenix-Mesa, AZ, and Tampa-St. Petersburg-Clearwater, FL, metropolitan areas. These surveys showed the pay disparities in these areas to be below the pay disparity for the ''Rest of U.S.'' locality pay area. In accordance with the criteria previously established by the Federal Salary Council, these areas are not being proposed as separate locality pay areas and will continue to be part of the ''Rest of U.S.'' locality pay area because the pay disparity in each area is 2⁄10ths of a percentage point or more below the pay disparity for the ''Rest of U.S.'' locality pay area. The information used to make this determination is a part of the public record and is available from OPM.

The Pay Agent's decision regarding locality pay areas for 1997 must be made no later than November 30, 1995. Therefore, OPM has established a 30-day public comment period on these proposed regulations. After the public comment period, the Pay Agent will consider the comments received from Federal employees, agencies, employee organizations, and other interested parties before making its determination on the establishment of pay localities. The Pay Agent also will consider any additional views and recommendations expressed directly to the Pay Agent by any member of the Federal Salary Council or by employee organizations not represented on the Council. The final regulations issued by OPM will reflect the Pay Agent's final determination on this matter.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number or small entities because they would apply only to Federal agency and employees.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is proposing to amend part 531 of title 5, Code of Federal Regulations, as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation of part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5558; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, February 4, 1991, 3 CFR, 1991 Comp., p. 316;

Subaprt A also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, December 30, 1991, 3 CFR, 1919 Comp., p. 376;

Subpart B also issued under 5 U.S.C. 5303(g) 5333, 5334(a), and 7701(b)(2);

Subaprt C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, November 29, 1993, 3 CFR, 1993 Comp., p. 682

Subpart F—Locality-Based Comparability Payments

2. In § 531.603, paragraph (b) is revised to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) The following are locality pay areas for the purpose of this subpart;

(1) Atlanta, GA—consisting of the Atlanta, GA MSA;

(2) Boston-Worcester-Lawrence, MA–NH–ME–CT—consisting of the Boston-Worcester-Lawrence, MA–NH–ME–CT CMSA;

(3) Chicago-Gary-Kenosha, IL–IN–WI—consisting of the Chicago-Gary-Kenosha, IL–IN–WI CMSA;

(4) Cincinnati-Hamilton, OH–KY–IN—consisting of the Cincinnati-Hamilton, OH–KY–IN CMSA;

(5) Cleveland-Akron, OH—consisting of the Cleveland-Akron, OH CMSA;

(6) Columbus, OH—consisting of the Columbus, OH MSA;

(7) Dallas-Fort Worth, TX—consisting of the Dallas-Fort Worth, TX CMSA;

(8) Dayton-Springfield, OH—consisting of the Dayton-Springfield, OH MSA;

(9) Denver-Boulder-Greeley, CO—consisting of the Denver-Boulder-Greeley, CO CMSA;

(10) Detroit-Ann Arbor-Flint, MI—consisting of the Detroit-Ann Arbor-Flint, MI CMSA;

(11) Houston-Galveston-Brazoria, TX—consisting of the Houston-Galveston-Brazoria, TX CMSA;

(12) Huntsville, AL—consisting of the Huntsville, AL MSA;

(13) Indianapolis, IN—consisting of the Indianapolis, IN MSA;

(14) Kansas City, MO–KS—consisting of the Kansas City, MO–KS MSA;

(15) Los Angeles-Reverside-Orange County, CA—consisting of the Los Angeles-Riverside-Orange County, CA CMSA, plus Santa Barbara County, CA, and that portion of Edwards Air Force Base, CA, not located within the Los Angeles-Riverside-Orange County, CA CMSA;

(16) Miami-Fort Lauderdale, FL—consisting of the Miami-Fort Lauderdale, FL CMSA;

(17) Milwaukee-Racine, WI—consisting of the Milwaukee-Racine, WI CMSA;

(18) Minneapolis-St. Paul, MN–WI—consisting of the Minneapolis-St. Paul, MN–WI MSA;

(19) New York-Northern New Jersey-Long Island, NY–NJ–CT–PA—consisting of the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA;

(20) Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD—consisting of the Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD CMSA;

(21) Pittsburgh, PA—consisting of the Pittsburgh, PA MSA;

(22) Portland-Salem, OR–WA—consisting of the Portland-Salem, OR–WA CMSA;

(23) Richmond-Petersburg, VA—consisting of the Richmond-Petersburg, VA MSA;

(24) Sacramento-Yolo, CA—consisting of the Sacramento-Yolo, CA CMSA;

(25) St. Louis, MO–IL—consisting of the St. Louis, MO–IL MSA;

(26) San Diego, CA—consisting of the San Diego, CA MSA;

(27) San Francisco-Oakland-San Jose, CA—consisting of the San Francisco-Oakland-San Jose, CA CMSA;

(28) Seattle-Tacoma-Bremerton, WA—consisting of the Seattle-Tacoma-Bremerton, WA CMSA;

(29) Washington-Baltimore, DC–MD–VA–WV—consisting of the Washington-Baltimore, DC–MD–VA–WV CMSA, plus St. Mary's County, MD; and

(30) Rest of U.S.—consisting of those portions of the continental United States not located within another locality pay area.

[FR Doc. 95–25583 Filed 10–13–95; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

[Docket No. R–0898]

Section 303 Regulatory Review Timetable

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Schedule for review of regulations.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) is publishing a schedule for review of its major regulations, policy statements, and other regulatory guidance pursuant to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Section 303). The timetable should enable interested parties to comment meaningfully at various points in the review process, including providing suggestions for the development of regulatory proposals for comment. Any comments received will be considered during the course of the individual reviews listed below. Several major regulatory reviews are currently pending before the Board, and these also are set forth in the notice. The Board has already undertaken various measures since the passage of Section 303 to fulfill its mandate to streamline and improve the Board's regulations and policies, as well as to work jointly with the other Federal banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies.

DATES: Comments may be submitted until further notice.

ADDRESSES: Comments should refer to Docket No. R–0898, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Thomas A. Durkin, Regulatory Planning and Review Director, Office of the Secretary (202/452–3236); Stephen M. Lovette, Manager, Policy Implementation Section, Division of Banking Supervision and Regulation (202/452–3622); Jane Ahrens, Senior Attorney, Division of Consumer and Community Affairs (202/452–3667); or Michael J. O'Rourke, Senior Attorney, Legal Division (202/452–3288); for the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

Section 303(a)(1) of the Riegle Community Development and Regulatory Improvement Act of 1994 requires that each Federal banking agency shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest:

(1) Conduct a review of the regulations and written policies of that agency to—

(A) Streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) Remove inconsistencies and outmoded and duplicative requirements; and

(C) With respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act [real estate lending standards], consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) Work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) Submit a joint report to the Congress at the end of such 2-year period [September 23, 1996] detailing the progress of the agencies in carrying out [these provisions].

12 U.S.C. 4803(a)(1)

There are several aspects to section 303's regulatory review mandate. The first comprises an internal review of the Board's own regulations and written policies for purposes of streamlining, improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The second aspect requires that the Board work jointly with the other banking agencies to render uniform regulations and guidelines implementing common statutory and supervisory policies. Finally, the Board and the other banking agencies must report to the Congress, by September 23, 1996, on the progress they have made under Section 303.

The Board has placed a high priority on, and will devote considerable resources to, fulfillment of section 303's mandate. To that end, the Board has assembled a staff team for each of its regulations and guidelines for purposes of its internal reviews for streamlining and efficiency purposes, and those teams have commenced their reviews. In that regard, major reviews of several Board regulations are already in process. These include, among others, Regulation T (securities credit); Regulation E (electronic funds transfers); Regulation M (consumer leasing); and Regulation K, Subpart A (investments by foreign banking organizations in U.S. subsidiaries).

In addition, the Board proposes to undertake comprehensive reviews of several additional major regulations within the next two years. These include: Regulation H (membership in the Federal Reserve System); Regulation K, generally (international banking operations); and Regulation Y (bank holding companies and change in bank control). Other reviews of general interest are listed on the schedule of Board regulatory reviews appearing below.

The Board has already taken several steps to ease regulatory burden on the banking industry and the public since the inception of Section 303. In that regard, the Board has:

(1) Simplified and expedited procedures under Regulation Y for applications and notices;

(2) Eased anti-tying restrictions to allow beneficial discount arrangements for bank products;

(3) Eliminated an entire class of non-control determinations under section 2(g)(3) of the Bank Holding Company Act;

(4) Eased branching interpretations regarding loan production offices; and

(5) Revised the Community Reinvestment Act regulations to emphasize performance, promote consistency in evaluations, and eliminate unnecessary burden.

In all, the Board has undertaken over 20 separate measures since the passage of section 303 to reduce burden and simplify its regulations, written policies, and procedures. In addition, the Board has several proposals out for comment which will further these efforts, including a recent proposal to expand the general consent authority under Regulation K regarding certain foreign investments by U.S. banking organizations. The Board views section 303 as an opportunity to continue these efforts on a comprehensive internal and interagency basis.

In connection with section 303, the Board contemplates a comprehensive review of all of its regulations and written policies, including policy statements, Board interpretations, miscellaneous materials in the Federal Reserve Regulatory Service (F.R.R.S.), Supervisory (SR) Letters, and the like. For example, Board staff will review well over 500 SR Letters, a substantial number of which can be eliminated as obsolete and the remainder streamlined, updated and combined. For some of these items, such as the Board's regulations and policy statements, the Board intends to seek public comment during the course of their individual reviews. To this end, the Board is publishing below a schedule of the major regulatory reviews over the next several years. All of the Board's regulations, policy statements and other regulatory guidance will be reviewed, and additional individual items will be put out for public comment.

It is hoped that, by providing this schedule, commenters will have the ability to address significant regulatory issues in an orderly and focused fashion, including providing suggestions regarding regulatory proposals for comment. For individual items on which the Board may determine not to seek public comment, such as reviews of administrative SR Letters or informal staff interpretations, the Board proposes to conduct an internal assessment to identify guidance that may be inconsistent with, or rendered obsolete by, the Board's current policies, and update or delete them as appropriate. Information about any and all Board 303 reviews may be obtained from the Board staff members listed in this notice.

Interested parties have already submitted some comments to the Board regarding its regulations, interpretations and procedures under the impetus of Section 303, and the Board will carefully consider these comments in the course of the appropriate individual reviews. The Board continues to welcome comments prompted by Section 303.

FEDERAL RESERVE BOARD TENTATIVE SCHEDULE OF SELECTED REGULATORY REVIEWS UNDER SECTION 303

Regulation/policy statement/ other regulatory guidance	Description	Target review dates [1]
Reg. E, 12 CFR Part 205	Electronic Fund Transfers (stored value cards, home banking, etc.)	2nd Half 1995.
Reg. H, 12 CFR 208.23	Loans in Areas Having Special Flood Hazards	2nd Half 1995.
Reg. K, 12 CFR 211.5, 211.22, 211.__.	International Banking Operations: Representative Office Rules; General Consent Authority; Management of Shell Branches; Subpart B Interstate/Bank Merger Rules.	2nd Half 1995.
Reg. U, 12 CFR Part 221	Credit by Banks for the Purpose of Purchasing or Carrying Margin Stock	2nd Half 1995.
Reg. D, 12 CFR Part 204	Reserve Requirements of Depository Institutions	1st Half 1996.
Reg. G, 12 CFR Part 207	Securities Credit by Persons Other Than Banks, Brokers, or Dealers	1st Half 1996.
Reg. O, 12 CFR Part 215	Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks	1st Half 1996.
Reg. R, 12 CFR Part 218	Relationships with Dealers in Securities Under Section 32 of the Banking Act of 1933	1st Half 1996.
4 F.R.R.S. 9–1000	Payments System Risk Policy	1st Half 1996.
Reg. L, 12 CFR Part 212	Management Official Interlocks	1st Half 1996.
Reg. AA, 12 CFR Part 227	Unfair or Deceptive Acts or Practices	1st Half 1996.
Reg. Y, 12 CFR Part 225, All Provisions.	Bank Holding Companies and Change in Bank Control	1st Half 1996.
Reg. X, 12 CFR Part 224	Borrowers of Securities Credit	1st Half 1996.
Reg. CC, 12 CFR Part 229	Availability of Funds and Collection of Checks	1st Half 1996.
SR Letters (126)	SR Letters on Securities Activities and SR Letters That Are Potentially Obsolete	1st Half 1996.
Reg. H, 12 CFR Part 208, All Provisions.	Membership of State Banking Institutions in the Federal Reserve System	2nd Half 1996.
Reg. H, Reg. Y, Appendices.	Capital Adequacy Guidelines	2nd Half 1996.
Reg. K, 12 CFR Part 211, All Provisions.	International Banking Operations (Overall Comprehensive Review)	2nd Half 1996.
Reg. B, 12 CFR Part 202	Equal Credit Opportunity	2nd Half 1996.
Reg. C, 12 CFR Part 203	Home Mortgage Disclosure	2nd Half 1996.
SR Letters (117)	SR Letters on Foreign Supervision, Foreign and Domestic Applications Processing, Enforcement Activities, Trust Activities, Real Estate Lending Standards, Appraisal Standards, and Accounting Issues.	2nd Half 1996.
Reg. Z, 12 CFR Part 226	Truth in Lending	1st Half 1997.
SR Letters (62)	SR Letters on Supervisory Examinations and Prompt Corrective Action	1st Half 1997.
Reg. DD, 12 CFR Part 230	Truth in Savings	2nd Half 1998.

[1] Target Review Dates: Generally, target range to seek public comment. A review of the Board's SR Letters is currently in process and the target ranges for SR Letters reflect those times by which staff expects to complete the reviews.

By order of the Board of Governors of the Federal Reserve System, October 10, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–25403 Filed 10–13–95; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–16]

Airworthiness Directives; AlliedSignal, Inc. (Formerly Textron Lycoming) LTS101 Series Turboshaft and LTP101 Series Turboprop Engines

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 AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft and LTP101 series turboprop engines. This proposal would require identifying, removing, and replacing certain defective power turbine rotors. This proposal is prompted by reports of workmanship deficiencies on certain power turbine rotors that can reduce the published life limit of the disk. The actions specified by the proposed AD are intended to prevent power turbine rotor failure, which could result in loss of engine power.

DATES: Comments must be received by November 15, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–16, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Engines, 550 Main St., Stratford, CT 06497; telephone (203) 385–1135, fax (203) 385–1272. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Dave Keenan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7139, fax (617) 238–7199.

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 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–ANE–16.'' 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–16, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports that certain power turbine rotors installed on AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft and LTP101 series turboprop engines may have workmanship deficiencies. These deficiencies may have resulted in tool markings and removal of material from unapproved areas on rotor assembly disk surfaces. These deficiencies can reduce the life limit of the disk to below the published life limit. This condition, if not corrected, could result in power turbine rotor failure, which could result in loss of engine power.

The FAA has reviewed and approved the technical contents of Textron Lycoming Service Bulletin (SB) No. LT101–72–50–0144, applicable to all LTS101 series turboshaft engines except the LTS101–750B2 model, and all LTP101 series turboprop engines, dated January 15, 1993; and SB No. LT101–72–50–0145, applicable to Model LTS101–750B2 turboshaft engines, dated November 27, 1991. These SB's describe procedures for identifying, removing, and replacing defective power turbine rotors.

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 identifying, removing, and replacing certain defective power turbine rotors. The actions would be required to be accomplished in accordance with the SB's described previously.

There are approximately 645 engines of the affected design in the worldwide fleet. The FAA estimates that 430 engines installed on aircraft of .S. registry would be affected by this proposed AD, that it would take approximately 25 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer has advised the FAA that all required hardware will be provided at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $645,000.

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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AlliedSignal, Inc.: Docket No. 95–ANE–16.

Applicability: AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft engines installed on, but not limited to, the Eurocopter AS350 and SA366G1, Messerschmitt-Bolkow-Blohm/Kawasaki MBB–BK117 and the Bell Helicopter Textron 222 aircraft, and LTP101 series turboprop engines,installed on but not limited to, the Piaggio P166DL and Airtractor AT302 aircraft.

Note: This airworthiness directive (AD) applies to each engine 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 engines 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 Federal Aviation Administration (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 engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent power turbine rotor failure, which could result in loss of engine power, accomplish the following:

(a) For all LTS101 series turboshaft engines except the LTS101–750B2 model, and all LTP101 series turboprop engines, remove and replace power turbine rotors identified in Table 1 of Textron Lycoming Service Bulletin (SB) No. LT101–72–50–0144, dated January 15, 1993, in accordance with the accomplishment procedures in Textron Lycoming SB No. LT101–72–50–0144, dated January 15, 1993, and the following schedule:

(1) For power turbine rotors with more than 1,000 hours time since new (TSN) on the effective date of this AD, remove and replace within the next 50 hours time in service (TIS), not to exceed 1,800 cycles since new (CSN).

(2) For power turbine rotors with 1,000 hours TSN or less, but more than 800 hours TSN on the effective date of this AD, remove and replace within the next 100 hours TIS, not to exceed 1,800 CSN.

(3) For power turbine rotors with 800 hours TSN or less, but more than 400 hours TSN on the effective date of this AD, remove and replace within the next 150 hours TIS, not to exceed 1,800 CSN.

(4) For power turbine rotors with 400 hours TSN or less on the effective date of this AD, remove and replace no later than 600 hours TSN, not to exceed 1,800 CSN.

(b) For all LTS101–750B2 model engines, remove and replace power turbine rotors, in accordance with the accomplishment procedures of Textron Lycoming SB No. LT101–72–50–0145 dated November 27, 1991, within the next 100 hours TIS after the effective date of this AD, or 800 hours TSN on the power turbine rotor, whichever occurs first.

(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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 2, 1995.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–25564 Filed 10–13–95; 8:45 am]

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14 CFR Part 39

[Docket No. 95–ANE–47]

Airworthiness Directives; CFM International Model CFM56–3C–1 and CFM56–3B–2 Turbofan Engines Installed on Boeing 737–400 Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to all CFM International (CFMI) CFM56–3C–1 and certain CFM56–3B–2 engines, that currently requires the removal from service of certain fan disk and fan blade hardware, and limits the use of CFM56–3C–1 thrust levels. This action would require removal of additional fan blade hardware, require an Airplane Flight Manual (AFM) revision to impose thrust level limitations for airplanes equipped with affected engines, and require the installation of redesigned fan blades as a terminating action to the thrust level limitations of this AD. The current AD requirements for certain CFM56–3B–2 engines are unchanged and carried over into the proposed AD. This proposal is prompted by the availability of redesigned fan blades that are not subject to the thrust level limitations, and the need to clarify the AD requirements by deleting references to specific AFM's. The actions specified by the proposed AD are intended to prevent a fan blade failure that can result in complete loss of engine power.

DATES: Comments must be received by December 15, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–47, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplanes, Publications Department, P.O. Box 3707, Seattle, WA 98124–2207; and CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138, fax (617) 238–7199.

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 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–ANE–47.'' 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–47, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On December 1, 1989, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 89–13–51, Amendment 39–6425 (55 FR 1401, January 16, 1990), to require that all CFM International CFM56–3C–1 and certain CFM56–3B–2 model turbofan engines have their fan blade and fan disk hardware removed from service prior to further flight and replaced with serviceable hardware. That AD also requires that all aircraft with CFM56–3C–1 model turbofan engines must be modified to operate at or below CFM56–3B–2 thrust levels if using auto-throttle. In addition, that AD provides for the use of CFM56–3C–1 thrust levels within a limited operating envelope and with certain operational restrictions. That action was prompted by several fan blade high cycle fatigue failures, and one occurrence of fan disk cracking in the dovetail post area while operating at CFM56–3C–1 thrust levels. That condition, if not corrected, could result in a fan blade failure that can result in complete loss of engine power.

Since the issuance of that AD, the FAA has determined that two additional fan blades, Part Numbers (P/N) 9527M99P10 and 9527M99P11, have the same design configuration as the fan blades restricted in the current AD and therefore also require thrust level limitations.

In addition, since the issuance of AD 89–13–51 a new fan blade design has been introduced that has reduced vibratory stress levels. This new fan blade design and current fan disks in which these blades are installed would not be subject to the thrust level limitations of the current AD. The new fan blades will only be required on CFM56–3C–1 model turbofan engines. Installation of redesigned fan blades prior to June 30, 1996, would constitute a terminating action to the required thrust level limitations. The manufacturer has informed the FAA that at least 97% of the CFM56–3C–1 model turbofan engines have already incorporated the new fan blade design. The June 30, 1996, date would allow any engines that are in the process of incorporating the new fan blade design time to comply.

Finally, this proposal deletes references to specific Airplane Flight Manuals (AFM's), states the required CFM56–3C–1 operational restrictions in an Appendix to the AD, and requires that these restrictions be added to certain Boeing 737–400 AFM's. This change is being made to clarify the AD requirements since the AFM references in the current AD may be interpreted to only apply to a limited number of airplanes. The requirements of this AD have been reviewed by the Transport Airplane Directorate.

The FAA has reviewed and approved the technical contents of Boeing Service Bulletin (SB) No. 737–71–1203, Revision 10, dated July 21, 1994, that describes procedures for airplane modifications that limit engine thrust at or below CFM56–3B–2 levels when using auto-throttle; and CFM International CFM56–3/–3B/–3C SB No. 72–543, Revision 4, dated July 29, 1992, that provides instructions for installation of redesigned fan blades that have reduced vibratory stress levels.

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 89–13–51 to require removal of additional fan blade hardware, require an AFM revision to impose thrust level limitations for airplanes equipped with affected engines, and require the installation of redesigned fan blades as a terminating action to the thrust level limitations of this AD. The current AD requirements for certain CFM56–3B–2 engines are unchanged and carried over into the proposed AD.

There are approximately 289 CFMI CFM56–3C–1 and CFM56–3B–2 series engines of the affected design in the worldwide fleet. The FAA has been advised by the manufacturer that there are no engines on U.S. registered aircraft that would be affected by this AD. Therefore, there is no associated cost impact on U.S. operators as a result of this AD.

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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6425 (55 FR 1401, January 16, 1990) and by adding the following new airworthiness directive (AD):

CFM International: Docket No. 95–ANE–47. Supersedes AD 89–13–51, Amendment 39–6425.

Applicability: CFM International (CFMI) CFM56–3B–2 and CFM56–3C–1 model turbofan engines installed on but not limited to Boeing 737–400 series aircraft.

Note: This airworthiness directive (AD) applies to each engine 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 engines 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 (g) to request approval from the Federal Aviation Administration (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 engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fan blade failure that may result in complete loss of power, accomplish the following:

(a) For CFM56–3C–1 model turbofan engines:

(1) Prior to further flight, remove from service stage 1 fan disk Part Number (P/N) 335–014–511–0 that have operated at unrestricted CFM56–3C–1 thrust levels with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01 and replace with a serviceable fan disk.

(2) Prior to further flight, remove from service stage 1 fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, and 1285M39P01 that have operated at unrestricted CFM56–3C–1 thrust levels and replace with a serviceable fan blade.

(b) For CFM56–3C–1 model turbofan engines equipped with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01:

(1) Prior to further flight, for aircraft that have not already complied with any of the revision levels 3 through 10 of Boeing Service Bulletin (SB) No. 737–71–1203, incorporate the provisions of Boeing SB No. 737–71–1203, Revision 10, dated July 21, 1994, as described in item III titled, ''Accomplishment Instructions'', part V, ''Airplane Wiring Modification for Operation at 22,000 Pounds Thrust Levels with two CFM56–3C–1 Engines Installed.''

(2) Prior to further flight, revise the engine limitations section of the Boeing 737–400 series Airplane Flight Manuals (AFM) by adding the operational restrictions contained in Appendix I. This may be accomplished by inserting a copy of Appendix I of this AD in the AFM.

(3) Operate engines at or below CFM56–3B–2 thrust levels, or in accordance with the limitations contained in Appendix I of this AD.

Appendix I

Operational Restrictions Referenced in Paragraphs (b)(2) and (b)(3)

(a) Use of fan speed (N1) values for take-off and maximum continuous thrust levels at CFM56–3C–1 (23.5K) thrust levels are restricted.

(b) The following limitations must be observed for all CFM56–3C–1 (23.5K) operations:

(1) Airport pressure altitude must be 2,500 feet or less for take-off.

(2) The auto-throttle must be *OFF* and the thrust must be set manually for take-off.

(3) Both power management controls (PMC's) must be operative for airplane dispatch.

(4) Maximum take-off thrust for CFM56–3C–1 (23.5K) rating must *not* be used above

5,000 feet pressure altitude, or the 5 minute time limit, whichever occurs first.

(5) Maximum continuous or maximum climb thrust for CFM56–3C–1 (23.5K) rating must *not* be used above 10,000 feet pressure altitude.

(6) LANDING.

(i) For landing at destination airport or for less than maximum landing weight the CFM56–3B–2 (22K) go-around rating should be used.

(ii) Go-around at CFM56–3C–1 (23.5K) rating should be used when returning to departure airport or diverting in an emergency situation providing airport pressure altitude is 2,500 feet or less and the landing weight is greater than maximum landing weight.

End of Appendix I

(c) For CFM56–3C–1 model turbofan engines equipped with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01, install fan blade P/N's 1590M21P01, 1663M24P01, 1663M24P02, 1663M24P03, 7M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01, 1663M24P04, or 1663M24P05 in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–543, Revision 4, dated July 29, 1992, prior to June 30, 1996. The installation of new fan blades in accordance with this paragraph constitutes terminating action to the thrust level limitations required by paragraph (b) of this AD.

(d) For CFM56–3B–2 model turbofan engines, Serial Number (S/N) 725101, 725102, 725103, 725104, 725105, 725107, 725108, 725141, and 725142:

(1) Prior to further flight, remove from service stage 1 fan disk P/N 335–014–511–0 that have operated at unrestricted CFM56–3C–1 thrust levels with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01 and replace with a serviceable fan disk.

(2) Prior to further flight, remove from service stage 1 fan blade P/N's 9527M99P08, 9527M99P09, 9257M99P10, 9257M99P11, and 1285M39P01 that have operated at unrestricted CFM56–3C–1 thrust levels and replace with a serviceable fan blade.

Note: Ground running for maintenance purposes should be conducted in accordance with CFM56–3B–2 rating limitations.

(e) Fan disk removal, fan blade removal, and airplane wiring modifications done in accordance with AD 89–13–51 satisfies the corresponding requirements of paragraphs (a), (b), and (d) of this AD.

(f) For the purpose of this AD, unrestricted CFM56–3C–1 thrust levels include operation at *either* of the following:

(1) More than CFM56–3B–2 maximum take-off thrust above 5,000 feet pressure altitude.

(2) More than CFM56–3B–2 maximum continuous or maximum climb thrust above 10,000 feet pressure altitude.

(g) 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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 2, 1995.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–25568 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–87–AD]

Airworthiness Directives; Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes, and Model F28 Mark 0100 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 Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes, and Model F28 Mark 0100 series airplanes. This proposal would require repetitive pre-load adjustment of the main landing gear (MLG) downlock-actuator. This proposal is prompted by reports that upon landing, the MLG had collapsed, as a result of the lock toggle-links being pulled out of the over-center position by the downlock-actuator due to the relative movement of the upper and lower side-stay members. The actions specified by the proposed AD are intended to prevent collapse of the MLG, which could adversely affect the controllability of the airplane during landing.

DATES: Comments must be received by November 27, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–87–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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

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–87–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–87–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes and Model F28 Mark 0100 series airplanes. The RLD advises that it has received a report indicating that, upon landing without any apparent system failures or component fractures, a Fokker Model F28 Mark 0100 series airplane experienced the collapse of its right-hand main landing gear (MLG). Investigation revealed that, under extreme inward side-load conditions, relative movement of the upper and lower side-stay members occurs. This may cause the downlock-actuator to pull the lock toggle-link out of the over-center position, resulting in loss of the downlock function. This condition could occur in certain situations that are beyond the design ultimate load landing conditions, such as touching down at large ''crab'' angles. These conditions, if not corrected, could result in the collapse of the MLG upon landing, which could adversely affect the controllability of the airplane during landing.

Fokker has issued Service Bulletins SBF100–32–094, dated November 10, 1994, and Revision 1, dated March 15, 1995 (for Model F28 Mark 0100 series airplanes), and F28/32–153 (for Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes), dated November 10, 1994, which describe procedures for pre-load adjustment of the MLG downlock-actuator. This adjustment will effectively counter any pulling forces on the lock toggle-links and prevent collapse of the MLG due to the lock-toggle links being pulled out of the over-center position. The RLD classified these service bulletins as mandatory and issued the Netherlands airworthiness directive BLA 94–163(A), dated December 12, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands. BLA 94–163(A) also mandates repetitive pre-load adjustments of the MLG downlock-actuator.

This airplane model is manufactured in the Netherlands 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 RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of these type designs 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 repetitive pre-load adjustments of the MLG downlock-actuator. The actions would be required to be accomplished in accordance with the applicable service bulletin described previously.

The FAA estimates that 162 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 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 $77,760, or $480 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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–87–AD.

Applicability: Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes equipped with Dowty Aerospace main landing gear (MLG) downlock-actuators, part number (P/N) 200497–004 or 200498–004 (on which Dowty Service Bulletin 32–17 has not been accomplished); or P/N 200497–005 or 200498–005 (on which Dowty Service Bulletin 32–17 has been accomplished); and Model F28 Mark 0100 series airplanes equipped with Dowty Aerospace MLG downlock-actuators, P/N 201218–005, -006, -007, or -008; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (b) 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 airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear (MLG), due to a lock toggle-link being pulled out of its over-center position by the MLG downlock-actuator; accomplish the following:

(a) Within 8 months after the effective date of this AD, perform a pre-load adjustment of the MLG downlock-actuator, in accordance with Fokker Service Bulletin SBF100–32–094, dated November 10, 1994, or Revision 1, dated March 15, 1995 (for Model F28 Mark 0100 series airplanes); or Fokker Service Bulletin F28/32–153, dated November 10, 1994 (for Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes); as applicable. Repeat the adjustment thereafter at each scheduled maintenance, installation, or replacement of the MLG downlock-actuator.

(b) 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.

(c) Special flight permits may be issued in accordance with sections 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 October 10, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25604 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–37]

Airworthiness Directives; Pratt & Whitney PW2000 Series Turbofan Engines

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 Pratt & Whitney PW2000 series turbofan engines. This proposal would require a reduction in the cyclic service life limit for hubs, disks, airseals, blade retaining plates, and airsealing ring supports on certain high pressure turbines (HPT) and low pressure turbines (LPT), and provide for optional inspections for cracks or rework of certain HPT and LPT hardware in order to retain the original, higher cyclic service life limit for these components. This proposal is prompted in part by new temperature data from engine testing, which were used in recalculating stress levels, and resulted in a change to the calculated cyclic service life limit. The actions specified by the proposed AD are intended to prevent HPT or LPT failure, which may result in an uncontained engine failure and possible damage to the aircraft.

DATES: Comments must be received by December 15, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–37, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, Technical Publications Department, M/S 132–30, 400 Main Street, East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: John Fisher, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7149, fax (617) 238–7199.

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 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–ANE–37.’’ 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–37, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received updated high pressure turbine (HPT) and low pressure turbine (LPT) life limited part data for Pratt & Whitney PW2000 series turbofan engines, derived from the manufacturer’s review of turbine temperature data. The updated data and resulting part life analysis indicate that the service cyclic life limits must be reduced for certain HPT and LPT hubs, disks, airseals, blade retaining plates, and airsealing ring supports. This condition, if not corrected, could result in HPT or LPT failure, which may result in an uncontained engine failure and possible damage to the aircraft.

The FAA has reviewed and approved the technical contents of Pratt & Whitney PW2000 Engine Manual, Part Number (P/N) 1A6231, Sections 72–52–00, 72–53–00, and 05–10–00, which lists the reduced service cyclic life limits for affected parts identified by P/N, and describes procedures for optional inspections for cracks or rework of certain HPT and LPT hardware in order to retain the original, higher cyclic service life limit for these components; PW Service Bulletin (SB) No. 72–82, Revision 4, dated June 18, 1987, that describes rework and reidentification of the 1st stage HPT blade retaining plates to extend part life from 5,000 total part cycles (TPC) to 15,000 TPC; PW Alert Service Bulletin (ASB) No. 72–228, Revision 4, dated November 9, 1988, that describes inspections and rework of the 2nd stage HPT blade retaining plates in order to attain their respective published part lives; PW Alert SB No. 72–450, Revision 5, dated May 28, 1994, that describes inspections, rework, and reidentification of the 2nd stage HPT hubs to extend part life from 6,000 TPC to 15,000 TPC; PW SB No. 72–501, dated September 30, 1993, that describes inspections, rework, and reidentification of the 2nd stage HPT blades and inspection and reidentification of 2nd stage HPT hubs to extend hub life from 7,500 TPC to 15,000 TPC; PW ASB No. 72–220, Revision 4, dated September 20, 1989, that describes rework of the HPT lenticular seal to extend part life from 4,000 TPC to 15,000 TPC; and PW SB No. 72–233, Revision 3, dated May 30, 1989, that describes rework and identification of the HPT lenticular seal to extend part life from 4,000 TPC to 15,000 TPC.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, the proposed AD would require a reduction in the cyclic service life limit for hubs, disks, airseals, blade retaining plates, and airsealing ring supports on certain HPT and LPT, and provide for optional inspections for cracks or rework of certain HPT and LPT hardware in order to retain the original, higher cyclic service life limit for these components.

There are approximately 650 engines of the affected design in the worldwide fleet. The FAA estimates that 600 engines installed on aircraft of U.S. registry would be affected by this proposed AD, and that no additional labor costs would be incurred by the fleet since inspection and replacement intervals fall within the normal overhaul periods. Therefore, the FAA has determined that there would be no additional cost impact on U.S. operators due to sufficient time to schedule shop visits.

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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 95–ANE–37.

Applicability: Pratt & Whitney Models PW2037, PW2037(M), PW2040, PW2240, and PW2337 turbofan engines installed on but not limited to Boeing 757 series and Ilyushin IL96 series aircraft.

Note: This AD applies to each engine 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 engines 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 (o) 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 engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent high pressure turbine (HPT) or low pressure turbine (LPT) failure, which may result in an uncontained engine failure and possible damage to the aircraft, accomplish the following:

(a) Remove from service 1st stage HPT disks, Part Number (P/N) 1A5301, prior to exceeding 5,000 total part cycles (TPC), if installed with blade retaining plate, P/N 1A6998, and replace with serviceable parts. If blade retaining plate, P/N 1A6998, has not been installed on disk, P/N 1A5301, the disk may accumulate 15,000 TPC prior to removal from service.

(b) Remove from service 1st stage HPT blade retaining plates, P/N 1A6998, prior to exceeding 5,000 TPC, and replace with serviceable parts. If rework is accomplished prior to exceeding 5,000 TPC in accordance with the Accomplishment Instructions of PW Service Bulletin (SB) No. 72–82, Revision 4, dated June 18, 1987, and reidentified as assembly P/N 1B2373, the blade retaining plate may accumulate 15,000 TPC prior to removal from service.

(c) Remove from service 2nd stage HPT blade retaining plates, P/N 1B0450, prior to exceeding 7,000 TPC, and replace with serviceable parts.

(d) Remove from service 2nd stage HPT blade retaining plates, P/N 1B0945 (assembly P/N 1B0947), and replace with serviceable parts, in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) No. 72–228, Revision 4, dated November 9, 1988, as follows:

(1) Prior to exceeding 5,000 TPC, for retaining plates that have not been inspected in accordance with the Accomplishment Instructions of the above ASB prior to 3,000 TPC.

(2) Prior to exceeding 8,000 TPC, for retaining plates that have been inspected in accordance with the Accomplishment Instructions of the above ASB prior to 3,000 TPC.

(e) Remove from service 2nd stage HPT hubs, P/N's 1A8302, 1B1002, 1B1202, and 1B4902 prior to exceeding 6,000 TPC, and replace with serviceable hubs. Hubs may accumulate 15,000 TPC prior to removal from service if they are inspected at intervals that are not more than 6,000 TPC, in accordance with the Accomplishment Instructions of PW Alert SB No. 72–450, Revision 5, dated May 28, 1994.

(f) Remove from service 2nd stage HPT hubs, P/N 1B6602, prior to exceeding 7,500 TPC, and replace with serviceable hubs. Hubs may accumulate 15,000 TPC prior to removal from service if hub assemblies are inspected prior to 7,500 TPC to verify scarf cut blades are installed and to inspect the blade platform rail fillet radii dimensions, in accordance with the Accomplishment Instructions of PW SB No. 72–501, dated September 30, 1993. Hub assemblies found with non-scarf cut blades must be reinspected at intervals not to exceed 6,000 TPC since last inspection. Blades found with under minimum radii dimensions must be scrapped.

(g) Remove from service HPT lenticular airseal, P/N 1A8209, prior to exceeding 4,000 TPC, and replace with serviceable airseals. Airseals may accumulate 15,000 TPC prior to removal from service if:

(1) Inspected prior to exceeding 4,000 TPC, and thereafter inspected at intervals not to exceed 250 cycles in service since last inspection, in accordance with Compliance Paragraph E of the Accomplishment Instructions of PW ASB No. 72–220, Revision 4, dated September 20, 1989; or

(2) The 2nd stage HPT case and vane assembly is reworked (pre-trench) and reidentified prior to exceeding 4,000 TPC in accordance with the Accomplishment Instructions of PW SB No. 72–233, Revision 3, dated May 30, 1989.

(h) For PW2037, PW2037(M), and PW2337 model engines, remove from service 4th stage LPT disks, P/N's 8A1024, 8A1534, and 8A2137 prior to exceeding 17,000 TPC, and replace with serviceable disks.

(i) For PW2040 and PW2240 model engines, remove from service 4th stage LPT disks, P/N's 8A1534 or 8A2137, prior to exceeding 15,000 TPC, and replace with serviceable disks.

(j) Remove from service 3rd stage LPT airsealing ring supports, P/N 8A1783, and replace with serviceable parts, as follows:

(1) For PW2040 and PW2240 model engines, prior to exceeding 15,000 TPC.

(2) For PW2037, PW2037(M), and PW2337 model engines, prior to exceeding 17,000 TPC. Airsealing ring supports may accumulate 20,000 TPC prior to removal from

service if they were fluorescent penetrant inspected in accordance with PW2000 Engine Manual, P/N 1A6231.

(k) For PW2037, PW2037(M), and PW2337 model engines, remove from service prior to exceeding 17,000 TPC, and replace with serviceable parts, as follows:

(1) 4th stage LPT airseal, P/N's 8A1014 and 8A1805.

(2) 5th stage LPT airseal, P/N's 8A1015 and 8A1806.

(3) 7th stage LPT airseal, P/N's A8A1017, A8A1808, 8A2097, and A8A2097.

(l) Parts listed in paragraph (k) of this AD may accumulate 20,000 TPC prior to removal from service if they were fluorescent penetrant inspected for cracks between 12,000 TPC and 17,000 TPC in accordance with Section 72–53–00 of PW2000 Engine Manual, P/N 1A6231.

(m) For PW2040 and PW2240 model engines, remove from service prior to exceeding 15,000 TPC, and replace with serviceable parts, as follows:

(1) 4th stage LPT airseal, P/N's 8A1014 and 8A1805.

(2) 5th stage LPT airseal, P/N's 8A1015 and 8A1806.

(3) 7th stage LPT airseal, P/N's A8A1017, A8A1808, 8A2097, and A8A2097.

(n) Parts listed in paragraph (m) of this AD may accumulate the following TPC prior to removal from service if they were fluorescent penetrant inspected for cracks between 10,000 TPC and 15,000 TPC in accordance with Section 72–53–00 of PW2000 Engine Manual, P/N 1A6231.

(1) 4th stage LPT airseal, P/N's 8A1014 and 8A1805, prior to exceeding 18,000 TPC.

(2) 5th stage LPT airseal, P/N's 8A1015 and 8A1806, prior to exceeding 19,000 TPC.

(3) 7th stage LPT airseal, P/N's A8A1017, A8A1808, 8A2097, and A8A2097, prior to exceeding 20,000 TPC.

(o) 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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 3, 1995.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–25565 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–ANE–51]

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

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 Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. This proposal would require replacement of 3rd, 4th, and 5th stage low pressure turbine (LPT) vane retention bolts and nuts, and the removal of the 5th stage vane configuration which includes an electro-discharge machined (EDM) slot and replacement with a cast slot configuration. This proposal is prompted by reports of LPT failures that resulted in uncontained engine failures. The actions specified by the proposed AD are intended to prevent LPT vane failures, which can result in uncontained engine failure, fire, and possible damage to the aircraft.

DATES: Comments must be received by December 15, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–51, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: John Fisher, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7149, fax (617) 238–7199.

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 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–ANE–51.'' 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–51, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received five reports of low pressure turbine (LPT) failures on Pratt & Whitney (PW) JT9D–7R4 series turbofan engines, three of which resulted in uncontained engine failures. These LPT failures have been attributed to the following two root causes. The FAA's investigation revealed that certain 4th stage LPT vane retention bolts fractured due to the application of uncured anti-gallant compound on vane retention bolts. Also, the investigation revealed that certain 5th stage vanes failed due to inclusion of an electro-discharge machined (EDM) slot, which is prone to high stress concentrations in the outer platform slot. These conditions, if not corrected, could result in LPT vane failures, which can result in uncontained engine failure, fire, and possible damage to the aircraft.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) No. JT9D–7R4–72–473, Revision 2, dated February 8, 1993, that describes procedures for identification of EDM slot 5th stage LPT vanes and cast slot 5th stage LPT vanes; PW Alert Service Bulletin (ASB) No. JT9D–7R4–72–480, dated April 20, 1993, that describes procedures for replacement of vane clusters that have machined slots in the front face of the outer platform; PW ASB No. JT9D–7R4–72–481, dated April 20, 1993, that describes procedures for replacement of vane retention bolts and nuts; and PW SB No. JT9D–7R4–72–484, Revision 1, dated October 9, 1993, that describes procedures for replacement or modification to the 3rd, 4th, and 5th stage LPT air sealing ring stop assemblies and the turbine case heat shield assemblies, and installation of new bolts.

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 replacement of 3rd, 4th, and 5th stage LPT vane retention bolts and nuts and the removal of the 5th stage vane configuration which includes an EDM slot, and replacement with a cast slot configuration. In addition, the proposed AD would prohibit use of uncured anti-gallant compound on the bolts or nuts, as uncured anti-gallant compound was a contributor to the unsafe condition. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 600 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 22 work hours per engine 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 $792,000.

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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 94–ANE–51.

Applicability: Pratt & Whitney (PW) JT9D–7R4 series turbofan engines, installed on but not limited to Airbus A300 and A310 series, and Boeing 747 and 767 series aircraft NOTE: This AD applies to each engine 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 engines 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 engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent low pressure turbine (LPT) vane failures, which can result in uncontained engine failure, fire, and possible damage to the aircraft, accomplish the following:

(a) Remove electro-discharge machined (EDM) slot 5th stage LPT vane cluster segments, Part Numbers (P/N) 787885 or 787885–001, and replace with the cast pocket vane configuration, P/N 796985, 795175, 796985–001, 808875, 811985, or 811985–001, at the next shop visit, but not later than 5,000 cycles in service (CIS) after the effective date of this AD, in accordance with PW Alert Service Bulletin (ASB) No. JT9D–7R4–72–480, dated April 20, 1993. NOTE: Pratt & Whitney SB No. JT9D–7R4–72–473, Revision 2, dated February 8, 1993, may be used to segregate EDM slot from cast pocket 5th stage LPT vane clusters sharing the same P/N 787885 and 787885–001.

(b) For LPT modules that have been previously disassembled, perform either paragraph (b)(1) or (b)(2) of this AD at the next shop visit, but not later than 5,000 CIS after the effective date of this AD.

(1) Install new 3rd, 4th, and 5th stage LPT vane bolts and nuts, in accordance with PW ASB No. JT9D–7R4–72–481, dated April 20, 1993. Do not use uncured anti-gallant compound on the bolts or nuts.

(2) Install new 3rd, 4th, and 5th stage LPT vane bolts and nuts, and install heat shield assemblies and air sealing ring stop assemblies in accordance with PW SB No. JT9D–7R4 72–484, Revision 1, dated October 9, 1993. Do not use uncured anti-gallant compound on the bolts or nuts.

(c) For LPT modules that have never been disassembled, perform either paragraph (b)(1) or (b)(2) of this AD at the first LPT module disassembly. Do not use uncured anti-gallant compound on the bolts or nuts.

(d) For the purpose of this AD, a shop visit is defined as the induction of an engine into a maintenance facility for the purpose of either:

(1) Separation of pairs of major mating engine flanges; or

(2) The removal of an engine disk, hub, or spool.

(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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 3, 1995.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–25566 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–ANE–07]

Airworthiness Directives; Teledyne Continental Motors (formerly Bendix) S–20, S–1200, D–2000, and D–3000 Series Magnetos

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), applicable to Teledyne Continental Motors (TCM) (formerly Bendix) S–20, S–1200, D–2000, and D–3000 series magnetos equipped with impulse couplings, that would have superseded an AD that currently requires inspections for wear, and replacement, if necessary, of the impulse coupling assemblies. The proposed rule would have retained the repetitive inspections for wear required by the current AD, but would have also required replacement, if necessary, of riveted impulse coupling assemblies with newly designed, improved, snap ring impulse coupling assemblies. In addition, the proposed AD would have required marking the magneto data plate to indicate installation of a snap ring impulse coupling assembly. Installation of snap ring impulse coupling assemblies would have constituted terminating action to the inspection requirements of the AD. That proposal was prompted by availability of an improved design for the impulse coupling assembly. This action revises the proposed rule by allowing installation of replacement serviceable riveted as well as snap ring impulse couplings. The actions specified by this proposed AD are intended to prevent magneto failure and subsequent engine failure.

DATES: Comments must be received by December 15, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–07, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, AL 36601; telephone (334) 438–3411. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Atlanta Certification Office, FAA, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, GA, 30337–2748; telephone (404) 305–7371, fax (404) 305–7348.

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 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–ANE–07.'' 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–07, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On January 4, 1983, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 78–09–07 R3, Amendment 39–4538 (48 FR 1482, January 13, 1983), to require inspections for wear, and replacement, if necessary, of the impulse coupling assemblies on certain Teledyne Continental Motors (TCM) (formerly Bendix) S–20, S–1200, D–2000, and D–3000 series magnetos equipped with impulse couplings. That action was prompted by reports of numerous magneto failures. That condition, if not corrected, could result in magneto failure and subsequent engine failure.

A proposal to amend part 39 of the Federal Aviation Regulations was published as a notice of proposed rulemaking (NPRM) in the Federal Register on September 21, 1993 (58 FR 48987). That NPRM would have retained the repetitive inspections for wear required by the current AD, but would have also required replacement, if necessary, of the riveted impulse coupling assembly with newly designed, improved, snap ring impulse coupling assemblies. In addition, the proposed AD would have required marking the magneto data plate to indicate installation of a snap ring impulse coupling assembly. Installation of snap ring impulse coupling assemblies would have constituted terminating action to the inspection requirements of this AD. That NPRM was prompted by the manufacturer redesigning the impulse coupling assembly to include snap ring fastening technology which strengthens the cam axle and reduces wear. The snap ring impulse coupling assembly was believed not to have the failure mode of the previous design.

Since the issuance of that NPRM, the FAA received reports of snap ring impulse coupling assemblies being worn beyond limits. The FAA determined that it was necessary to reopen the proposal for public comment, so a Supplemental NPRM was published in the Federal Register on November 17, 1994 (59 FR 59391). That Supplemental NPRM proposed to retain the 500 hour repetitive inspections for wear required by the current AD, but would require these inspections for magnetos equipped with snap ring impulse coupling assemblies as well.

Since the publication of that Supplemental NPRM, the FAA has received comments. One commenter supports the AD as written. The other two commenters state that they basically support the AD, but feel that serviceable riveted impulse couplings should be permitted as replacement units as well as the snap ring design. The FAA concurs, while there has been no production of riveted impulse couplings since January 1992, distributors may still have some left as this was a common, relatively high use item. This new Supplemental NPRM has therefore been revised to propose replacement of worn impulse couplings with serviceable impulse couplings of either design.

Since this change expands 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 has reviewed and approved the technical contents of TCM Mandatory Service Bulletin (MSB) No. MSB645, dated April 4, 1994, that describes procedures for inspection of the impulse coupling assemblies for wear; and TCM SB No. 639, dated March 1993, that clarifies procedures for installation of impulse coupling assemblies.

The FAA estimates that 130,000 magnetos would be affected by this proposed AD, that the required inspection would take 1 work hour, plus 1 work hour to change the impulse coupling, and that the average labor rate is $60 per work hour. The average utilization of the fleet of these airplanes is estimated to be evenly divided between commercial/commuter service and private owners. The commercial/commuter service population is estimated to operate 500 hours time in service (TIS) per year; therefore the cost to perform the inspections required by the proposed AD would be approximately $3,900,000 per year. The FAA estimates that private owners operate their aircraft between 50 and 100 hours TIS per year; therefore it will take approximately 5 to 10 years to reach 500 hours time in service. The estimated cost for these owners would also be $3,900,000 spread over a time period of 5 to 10 years or 780,000 per year for 5 years or $390,000 for 10 years. The cost to replace the impulse coupling assembly is $125 per magneto plus one work hour at $60 per work hour for a total of $185 per magneto. While all the riveted impulse coupling assemblies will eventually have to be replaced, it is not possible to estimate the cost per year. The total cost for replacement for U.S. operators would be $24,050,000.

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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Teledyne Continental Motors: Docket No. 93–ANE–07.

Applicability: Teledyne Continental Motors (TCM) (formerly Bendix) S–20, S–1200, D–2000, and D–3000 series magnetos equipped with impulse couplings, installed on but not limited to reciprocating engine powered aircraft manufactured by Beech, Cessna, Mooney, and Piper.

Note 1: This airworthiness directive (AD) applies to each magneto 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 magnetos 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 Federal Aviation Administration (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 magneto from the applicability of this AD.

Note 2: The FAA has received reports of some confusion as to what is meant by S–20, S–1200, D–2000, and D–3000 series magnetos as referenced in TCM Mandatory Service Bulletin (MSB) No. MSB645, dated April 4, 1994, and this airworthiness directive (AD). A typical example is S6RN–25, where the S designates single type ignition unit (a D designates a dual ignition unit), the 6 designates the number of cylinders, the R designates right hand rotation, the N is the manufacturer designation (this did not change when TCM purchased the Bendix magneto product line), and the number after the dash indicates the series (a–25 is a S–20 series magneto while a –3200 is a D–3000 series magneto, etc.).

Compliance: Required as indicated, unless accomplished previously.

To prevent magneto failure and subsequent engine failure, accomplish the following:

(a) For magnetos with riveted or snap ring impulse coupling assemblies, having less than 450 hours time in service (TIS) since new, or overhaul, or since last inspection, on the effective date of this AD, accomplish the following:

(1) Prior to the accumulation of 500 hours TIS since new, or overhaul, or since last inspection, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable riveted or snap ring impulse coupling assemblies, in accordance with the Detailed Instructions of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(2) Thereafter, at intervals not to exceed 500 hours TIS since the last inspection, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable riveted or snap ring impulse coupling assemblies, in accordance with the Detailed Instructions of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(b) For magnetos with riveted or snap ring impulse coupling assemblies, having 450 or more hours TIS since new, or overhaul, or since last inspection, on the effective date of this AD, or an unknown TIS on the effective date of this AD, accomplish the following:

(1) Within the next 50 hours TIS after the effective date of this AD, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable riveted or snap ring impulse coupling assemblies in accordance with the Detailed Instructions of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(2) Thereafter, at intervals not to exceed 500 hours TIS since the last inspection, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable riveted or snap ring impulse coupling assemblies, in accordance with the Detailed Instruction of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(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, Atlanta Aircraft Certification Office. The request should be forwarded through an appropriate

FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office. NOTE: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Atlanta Aircraft Certification Office.

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

Issued in Burlington, Massachusetts, on October 3, 1995.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–25567 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 801, 803, 804, and 897

[Docket No. 95N–0253]

Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 2, 1996, the comment period for the proposed rule that appeared in the Federal Register of August 11, 1995 (60 FR 41314). The document proposed new regulations governing the sale and distribution of nicotine-containing cigarettes and smokeless tobacco products in order to protect children and adolescents. As a result of this extension, the agency is providing a comment period of more than 140 days on the notice, and a comment period of more than 90 days from the date that additional documents that the agency considered were placed on display. This action is being taken in response to several requests for an extension of the comment period.

DATES: Written comments by January 2, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 11, 1995 (60 FR 41314), FDA issued a proposed rule that would govern the sale and distribution of nicotine-containing cigarettes and smokeless tobacco products in order to protect children and adolescents. The proposed rule would reduce easy access to these products by children and adolescents and decrease the amount of imagery that makes these products attractive to children and adolescents. The proposed rule would establish 18 years of age as the Federal minimum age of purchase and would prohibit cigarette vending machines, free samples, mail order sales, and self-service displays. It would also require that retailers comply with certain conditions regarding tobacco sales, such as verifying the purchaser's age. The proposed rule would limit advertising and labeling to which children and adolescents are exposed to a text-only format; ban the sale or distribution of branded, non-tobacco items (such as hats and tee shirts); restrict sponsorship of events to the corporate name only; and require manufacturers to establish and maintain a national public education campaign. The proposed rule would also require cigarette advertising to carry a brief statement stating, ''About one out of three kids who become smokers will die from their smoking;'' the agency stated that it would perform focus group testing to evaluate the content and format of the brief statement and other statements to determine whether the warnings are communicated effectively.

In response to the proposed rule, the Tobacco Institute; Brown & Williamson Tobacco Corp.; Liggett Group, Inc.; Lorillard Tobacco Co.; Philip Morris, Inc.; R. J. Reynolds Tobacco Co.; the Smokeless Tobacco Council, Inc.; Conwood Company, L. P.; Swisher Tobacco Co.; National Tobacco, L. P.; Pinkerton Tobacco Co.; and the United States Tobacco Co. requested a 180-day extension of the comment period. These parties requested additional time on the grounds that some references in the proposed rule were not available and that the regulatory issues were complex and controversial. They sought a 180-day comment period starting on the date when all documents and other material (including information reviewed, but not relied upon by FDA) are available for public display. The parties also requested that FDA extend the comment period to give interested persons sufficient time to review and comment on the methodology and results of focus group studies and proposed warning statements.

Additionally, the Cigar Association of America, Inc., requested a 9-month extension of the comment period to permit it to review and analyze the proposed rule and relevant technical materials. The Food Marketing Institute requested a 90-day extension of the comment period to permit it to develop information and data to respond to the proposed rule.

The agency has carefully considered the requests. The agency published the proposed rule on August 11, 1995. On August 16, 1995, the documents referred to in the proposed rule were placed in the public record. Thus, the proposed rule and the documents cited by the agency in support of the rule have been on public display since August 16, 1995. On September 29, 1995, FDA placed additional documents that the agency considered on public display at the Dockets Management Branch. Accordingly, FDA is extending the comment period to January 2, 1996. A deadline of December 28, 1995, would provide a comment period of 90 days from the date on which the agency placed additional documents that the agency considered on public display. Because, December 28, 1995, is a Thursday and January 1, 1996, is a holiday, the agency does not anticipate that it will be able to undertake significant work on the comments until January 2, 1996. Therefore, the agency is extending the comment period until January 2, 1996.

FDA will also provide a 30-day period to review and comment on the results of any focus group studies that it conducts. The agency will announce the dates for comments on the focus group studies in a future issue of the Federal Register. Otherwise, because of the public health importance of this matter, the agency advises that it does not anticipate granting further extensions of the comment period beyond January 2, 1996. In order to assure consideration by the agency, comments are to be filed by that date.

Interested persons may, on or before January 2, 1996, submit to the Dockets Management Branch (address above) written comments regarding the proposed rule. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–25670 Filed 10–12–95; 1:38 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[IA–30–95]

RIN 1545–AT86

Reporting of Nonpayroll Withheld Tax Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations relating to the reporting of nonpayroll withheld income taxes under section 6011 of the Internal Revenue Code. The text of the temporary regulations also serves as the text for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be received by December 15, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA–30–95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (IA–30–95), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, (202) 622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The collection of information is in § 31.6011(a)–4T(b). This information is required by the IRS to monitor compliance with the federal tax rules related to the reporting and deposit of nonpayroll withheld taxes.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224. To ensure that comments on the collection of information may be given full consideration during the review by the Office of Management and Budget, comments on the collection of information should be received by December 15, 1995.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Estimates of the reporting burden in this Notice of Proposed Rulemaking will be reflected in the burden of Form 945.

Background

The temporary regulations published in the Rules and Regulations section of this issue of the Federal Register contain an amendment to the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31). This amendment relates to the reporting of nonpayroll withheld tax liabilities. The temporary regulations change the rule regarding the filing of Form 945, Annual Return of Withheld Federal Income Tax, for a calendar year in which there is no liability.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are timely submitted to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information. The principal author of these regulations is Vincent G. Surabian, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

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

Par. 2. In § 31.6011(a)–4, paragraph (b) is revised to read as follows:

§ 31.6011(a)–4 Returns of income tax withheld.

* * * * *

(b) [The text of this proposed paragraph (b) is the same as the text of § 31.6011(a)–4T(b) published elsewhere in this issue of the Federal Register].

* * * * *

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–25313 Filed 10–13–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Colorado Regulatory Program

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

SUMMARY: OSM is announcing receipt of proposed revisions to rules that had been previously approved by OSM and additional explanatory information pertaining to a previously proposed amendment to the Colorado regulatory program (hereinafter, the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information for Colorado's proposed rules pertain to the definition of ''road;'' adjustments in bond amount; the bond liability period on land reclaimed for industrial or commercial, or residential use; bond forms; terms and conditions of irrevocable letters of credit; the criteria and schedule for release of performance bonds; and erosion control on mine support facilities is within areas where the pre- and postmining land use is industrial or commercial. The amendment is intended to revise the Colorado program to be consistent with the corresponding Federal regulations and SMCRA, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.s.t. November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., October 31, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Colorado 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 Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Western Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3300, Denver, Colorado 80202

Colorado Division of Minerals and Geology, Department of Natural Resources, 215 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203, Telephone: (303) 866–3567

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 672–5524.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, 906.16, and 906.30.

II. Proposed Amendment

By letter dated July 12, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO–670) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment in response to a February 7, 1990, letter (administrative record No. CO–484) that OSM sent to Colorado in accordance with 30 CFR 732.17(c), and at its own initiative.

OSM announced receipt of the proposed amendment in the July 28, 1995, Federal Register (60 FR 38773), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. CO–670–4). Because no one requested a public hearing or meeting, none was held. The public comment period ended on August 28, 1995.

In addition to the proposed amendment submitted on July 12, 1995, Colorado submitted under the same July 12, 1995, cover letter (administrative record No. CO–670), promulgated rules which had been previously approved by OSM (see 59 FR 28248, June 1, 1994, and 59 FR 62574, December 6, 1994). Upon promulgation of these previously approved rules, Colorado revised and submitted several of them in response to the requirement to amend its program at 30 CFR 906.16(g) and at its own initiative. The previously approved provisions of 2 Code of Colorado Regulations 407–2, the rules and regulations of the Colorado Mined Land Reclamation Board that Colorado proposes to revise are: Rule 1.04(111), concerning the definition of ''road;'' Rule 3.02.2(5), concerning adjustments in bond amount; Rule 3.02.3(2)(c), concerning the bond liability period on land reclaimed for industrial or commercial, or residential use; Rules 3.02.4(1), 3.02.4(1)(b) and (d), concerning bond forms; Rule 3.02.4(2)(c)(ix), concerning real property bonds; Rule 3.02.4(2)(d)(i), concerning terms and conditions of irrevocable letters of credit; Rule 3.03.1(2)(b), concerning the criteria and schedule for release of performance bonds; and Rule 4.15.10(3), concerning erosion control on mine support facilities within areas where the pre- and postmining land use is industrial or commercial.

Specifically, Colorado proposes to revise:

Rule 1.04(111), the definition of ''road,'' to exclude public roads;

Rule 3.02.2(5), to clarify the circumstances under which a permittee may request an adjustment in bond amount;

Rule 3.02.3(2)(c), to require that the minimum period of bond liability on land reclaimed for industrial or commercial, or residential use must continue until, among other things, the permittee demonstrates that development of the land use has substantially commenced and is likely to be achieved;

Rules 3.02.4(1) and 3.02.4(2)(c)(ix), to allow conditioned acceptance of real property bonds;

Rule 3.02.4(1)(b), to include a reference to the rules concerning conditions for approval of a collateral bond;

Rule 3.02.4(1)(d), to correct the citation of a referenced rule concerning approval of an alternative bonding system;

Rule 3.02.4(2)(d)(i), to allow an irrevocable letter of credit to be issued by a bank outside the State of Colorado if the letter of credit can be exercised at an affiliate or subsidiary located in the State of Colorado;

Rule 3.03.1(2)(b), to (1) allow for eighty-five percent of a bond amount to be released if, among other things, the established vegetation supports the approved postmining land use and (2) clarify that, with the exception of prime farmlands, the evaluation of vegetation establishment must be based on statistically valid data collected during a single year of the liability period; and

Rule 4.15.10(3), to delete the requirement for a demonstration that retention of the mine support facilities will support the approved postmining land use.

During its review of the proposed amendment and previously approved rules for which Colorado proposed further revisions upon promulgation, OSM identified issues relating to the provisions at Rule 1.04(111), concerning the definition of ''road;'' Rules 3.02.4(1) and 3.02.4(2)(c)(ix), concerning the allowance of real property bonds; Rule 4.15.10(3), concerning erosion control on mine support facilities located within areas where the pre- and postmining land use is industrial or commercial; and Rule 4.20.3(2), concerning subsidence-caused damages.

OSM notified Colorado of the concerns by letter dated August 31, 1995 (administrative record No. CO–670–7). Colorado responded in a letter dated September 26, 1995, by submitting additional explanatory information (administrative record No. CO–670–8).

Colorado proposes additional explanatory information for Rules 3.02.4(1) and 3.02.4(2)(c)(ix), concerning the allowance of real property bonds, and Rule 4.15.10(3), concerning erosion control on mine support facilities located within areas where the pre- and postmining land use is industrial or commercial. Specifically, Colorado explained that (1) because a collating error was made upon promulgation and Rule 3.02.4(c)(ix) was inadvertently removed, submitted Rule 3.02.4(c)(ix) should be codified as Rule 3.02.4(c)(x), and (2) it is policy that only mine support facilities which are appropriate for the postmining land use are approved for retention. In addition, Colorado stated that (1) it is aware of proposed U.S. Congressional bills which would amend SMCRA by providing an exemption for public roads and that it will proceed with any necessary revision of the definition of ''road'' at Rule 1.04(111) upon resolution of these bills and (2) it anticipated a 1996 rulemaking petition to address the necessary revisions at Rule 4.20.3(2), concerning subsidence-caused damages.

III. Public Comment Procedures

1. Written Comments

OSM is reopening the comment period on the proposed Colorado 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 Colorado 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 OSM's Denver Field Division will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on October 31, 1995. 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**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the 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 testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify 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 amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. 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).

2. 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 1255) 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 CFR parts 730, 731, and 732 have been met.

3. 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)).

4. 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.*).

5. 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 the 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 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 4, 1995.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 95–25554 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 934

[ND–033]

North Dakota Abandoned Mine Land Reclamation (AMLR) Plan

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the North Dakota AMLR plan (hereinafter, the ''North Dakota plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of addition of a contractor eligibility statutory provision, revision of procurement and contract procedures, revision of procurement and contract policies, and revision of the State agency organizational structure. The amendment is intended to revise the North Dakota plan to meet the requirements of the corresponding Federal regulations and to improve operational efficiency.

DATES: Written comments must be received by 4 p.m., m.d.t., November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t., October 31, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota plan, 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 Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, Wyoming 82601–1918

Louis A. Ogaard, Director, AML Division, Public Service Commission, Capitol Building, Bismarck, ND 58505–0165

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Plan

On December 23, 1981, the Secretary of the Interior approved the North Dakota plan. General background information on the North Dakota plan, including the Secretary's findings and the disposition of comments, can be found in the December 23, 1981, Federal Register (46 FR 62253). Subsequent actions concerning North Dakota's plan and plan amendments can be found at 30 CFR 934.25.

II. Proposed Amendment

By letter dated September 20, 1995, North Dakota submitted a proposed amendment to its plan (administrative record No. ND–X–02) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. ND–X–01) that OSM sent to North Dakota in accordance with 30 CFR 884.15(b). The provisions of its North Dakota plan that North Dakota proposes to add and/or revise are: North Dakota Century Code (NDCC) 38–14.2–03(14), powers and duties of the Commission; procurement procedures; contract procedures; policy 2–01–81(5), procurement policy and contract policy; and State agency organizational structure.

Specifically, North Dakota proposes to add to its statute at NDCC 38–14.2–03(14) a requirement that:

> Every successful bidder for an AML contract must be eligible based on available information concerning Federal and State failure-to-abate cessation orders, unabated Federal and State imminent harm cessation orders, delinquent civil penalties issued pursuant to Section 518 of the Surface Mining Control and Reclamation Act of 1977, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

North Dakota proposes to rename its ''Procurement Policy'' as ''Procurement Procedures'' and make various revisions in:

Section II, definitions and miscellaneous policy provisions, at subsection E, contract execution; subsection H, contractor selection; subsection I, final report; subsection K, preference; subsection M, procurement officer;

Section III, Public Service Commission and public contractor code of conduct, at subsection B, gifts; and

Section IV, procurement procedural requirements, at subsection B, procurement procedures; subsection C, method of procurement; subsection D, unsolicited proposal.

In the ''Procurement Procedures,'' North Dakota also proposes to add appendices at: A, evaluation criteria for request for proposals/competitive negotiations; B, sample scoring system for competitive negotiation type contracts; C, procedures for competitive contract negotiations; D, procedures for sole source procurement; and E, checklist for work statement (specific provisions) contracts and requests for proposals.

North Dakota proposes to rename its ''Contract Policy'' as ''Contract Procedures'' and make various revisions in:

Section II, checklist for negotiating contracts; and

Section III, standard contract provisions, at subsection B, construction contracts.

In the ''Contract Procedures,'' North Dakota also proposes to add appendices at: A, sample close-out letter to contractor; B, sample contract transmittal letter; C, sample detailed budget sheet for cost reimbursable contracts; D, checklist for negotiating contracts; E, Public Service Commission contract numbering system; F, conflict of interest disclaimer; G, checklist for work statement (specific provisions) contracts and request for proposals; and H, certification of payment to employees, suppliers, and subcontractors.

North Dakota proposes to revise policy 2–02–81(5), Public Service Commission contract policy and procurement policy.

Lastly, North Dakota submitted a revised organizational chart for the Public Service Commission. The chart indicates that 5.3 employees are devoted to abandoned mine lands.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. In the amendment is deemed adequate, it will become part of the North Dakota plan.

1. 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 Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t., October 31, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contract the individual listed under **FOR FURTHER INFORMATION CONTRACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the 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 testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify 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 amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under ''ADDRESSES.'' A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. 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).

2. 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 Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a termination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. 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.*).

5. 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 Tribe or State submittal which is the subject of this rule is based upon Federal regulations from 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 established by SMCRA or previously promulgated by OSM will be implemented by the Tribe or State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 934

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 1995.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 95–25558 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 938

[PA–112–FOR]

Pennsylvania Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment (Administrative Record Number PA 933.00) revises the Pennsylvania program to incorporate changes made by Pennsylvania House Bill 1075 and subsequent Pennsylvania law Act 1994–114. The proposed amendment is intended to provide special authorization for refuse disposal in areas previously affected by mining which contain pollutional discharges.

DATES: Written comments must be received by 4 p.m., e.d.t. November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to speak at the hearing must be received by 4 p.m., e.d.t. on October 31, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address shown below.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public hearings, 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 Harrisburg Field Office. 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:**

Robert J. Biggi, Director, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036

Pennsylvania Department of Environmental Resources, Bureau of Mining and Reclamation, Room 209 Executive House, 2nd and Chestnut Streets, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5103.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, Federal Register (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Discussion of Amendment

By letter dated September 14, 1995 (Administrative Record Number PA 837.01), Pennsylvania submitted an amendment to the Pennsylvania program. The amending language is contained in Pennsylvania House Bill 1075 and was enacted into Pennsylvania law as Act 1994–114. The amendments change Pennslyvania's Coal Refuse Disposal Act (of September 24, 1968 (P.L. 1040, No. 318) and amended on October 10, 1980 (P.L. 807, No. 154)) to provide authorization for refuse disposal in areas previously affected by mining which contain pollutional discharges. A summary of the proposed amendments is listed below.

1. *Section 1 Findings and Declaration of Policy*

This section is amended by adding policy statements that clarify Pennsylvania's rationale for authorizing coal refuse disposal on areas previously affected by mining which contain pollutional discharges.

2. *Section 3 Definitions*

This section is amended to provide definitions for the following terms: ''Abatement plan,'' ''Actual improvements,'' ''Baseline pollution load,'' ''Best technology,'' ''Coal refuse disposal activities,'' ''Pollution abatement area,'' and ''Public recreational impoundment.''

Section 3.2 Powers and Duties of the Environmental Quality Board

New subsection (b) is added to require the Environmental Quality Board to enact regulations that are consistent with the requirements of section 301(p) of the Federal Water Pollution Control Act (62 Stat 1155, 33 U.S.C. section 1311(p)) and the State remining regulations for surface coal mining activities.

Section 4.1 Site Selection

This new section is added to establish the criteria for selecting sites for coal refuse disposal.

Subsection (a) establishes the criteria for preferred sites polluted by acid mine drainage such as a watershed.

Subsection (b) identifies the areas where coal refuse disposal shall not occur, such as on prime farmland.

Subsection (c) requires the identification of alternative sites that were considered for new refuse disposal areas that support existing mining. This provision also requires a demonstration of the basis for the exclusion of other sites.

Subsection (d) requires the identification of alternative sites that were considered for new refuse disposal areas that support other than existing coal mining activity. This provision also requires a demonstration of the basis for the exclusion of other sites.

Subsection (e) provides that the alternatives analyses required by section 4.1 must satisfy the Dam Safety and Encroachments Act (November 26, 1978 (P.L. 1375, No. 325)).

Section 6.1 Designating Areas Unsuitable for Coal Refuse Disposal

Subsection (h)(5) is amended to provide for a variance to the 100-foot stream buffer zone provision for coal refuse disposal.

Section 6.2 Coal Refuse Disposal Activities on Previously Affected Areas

This is a new section added.

Subsection (a) provides that a special authorization must be requested to engage in coal refuse disposal on areas with pre-existing pollutional discharges resulting from previous mining.

Subsection (b) provides the criteria under which the State may grant a special authorization to engage in such coal refuse disposal.

Subsection (c) provides that the State may not grant a special authorization unless the operator seeking a special authorization for coal refuse disposal demonstrates certain specified provisions such as that the pollution abatement plan will result in a significant reduction of the baseline pollution load.

Subsection (d) provides that an authorization may be denied if granting it will or is likely to affect any legal responsibility or liability for abating the pollutional discharges from or near the pollution abatement area.

Subsection (e) provides that an operator may be required to provide specified additional information related to delineation of the pollution abatement area, the hydrologic balance of the area, and the abatement plan.

Subsection (f) provides that an operator who is granted a special authorization shall implement the approved water monitoring program and abatement plan, and notify the State immediately prior to the completion of each step of the abatement plan and to provide progress reports.

Subsection (g) specifies how pre-existing discharges shall be treated by the operator.

Subsection (h) provides the criteria under which treatment of a pre-existing discharge may be discontinued.

Subsection (i) sets forth requirement for reinstating treatment of a discharge and for the discontinuance of that treatment.

Subsection (j) provides the criteria and schedule for release of bonds for pollution abatement areas with a special authorization.

Subsection (k) sets forth the standard of successful revegetation for reclamation plans approved as part of a special authorization.

Subsection (l) provides that forfeited funds in the Surface Mining Conservation and Reclamation Fund shall be applied as a credit to the bond required for a special authorization. In addition, the area shall be exempt from permit reclamation fees.

Subsection (m) establishes the criteria for relieving an operator for all preexisting discharges under the special authorization.

3. *Section 6.3 Experimental Practices*

This new section sets forth criteria established to encourage practices that will advance coal refuse disposal practices and advance technology or practices that will enhance environmental protection with respect to coal refuse disposal activities.

4. *Section 15.1 Suspension of Implementation of Certain Provisions*

This new provision provides for the suspension of any provision of Act 1994–114 found to be inconsistent with SMCRA.

III. Public Comment Procedures

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 Pennsylvania program.

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 Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.d.t. on October 31, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the 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 speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak 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 amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of 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, to the extent allowed by law, 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 1255) and 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 CFR 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 which is the subject of this rule is based upon corresponding 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 95–25559 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 943

[TX–024–FOR]

Texas 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 a revision pertaining to a previously proposed amendment to the Texas regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed revision to the proposed amendment pertains to self-bonding. The proposed amendment is intended to revise the State program to be consistent with the corresponding Federal regulations.

This notice sets forth the times and locations that the Texas program and

revisions to the proposed amendment to that program are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., c.s.t., October 31, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, and all written comments received in response to this notice 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 Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135–6547, Telephone: (918) 581–6430.

Railroad Commission of Texas, Surface Mining and Reclamation Division, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the Texas program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Proposed Amendment

By letter dated August 11, 1995 (Administrative Record No. TX–593), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment at its own initiative. Texas proposed to amend the Texas Administrative Code (TAC) at 16 TAC 11.221, Texas Coal Mining Regulations (TCMR) § 806.309(j)(2)(C), concerning the criteria for acceptance of self-bonds to ensure reclamation performance.

OSM announced receipt of the proposed amendment in the September 12, 1995, Federal Register (60 FR 47316), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on the adequacy of the amendment. The public comment period would have ended October 12, 1995.

On September 23, 1995 (Administrative Record No. TX–593.03), OSM contacted Texas for clarification on the amendment. Specifically, OSM needed to know what effect Texas' existing 25 percent of net worth limitation provision at TCMR § 806.309(j)(5)(A) would have on the proposed 16⅔ percent net worth limitation provision at TCMR § 806.309(j)(2)(C)(iv)(II)(C). TCMR § 806.309(j)(5)(A) limits the total amount of the applicant's outstanding and proposed self-bonds for surface coal mining and reclamation operations to 25 percent of the applicant's tangible net worth in the United States. While TCMR § 806.309(j)(2)(C)(iv)(II)(C) limits the total amount of the applicant's outstanding and proposed self-bonds for surface coal mining and reclamation operations to 16⅔ percent of the applicant's net worth in the United States.

On September 25, 1995, Texas clarified its proposed provision at TCMR 806.309(j)(2)(C)(iv)(II)(C) by submitting a revised amendment package (Administrative Record No. TX–593.02). Specifically, Texas proposes to add the following new provision at TCMR 806.309(j)(2)(C)(iv).

> The limitation contained in subparagraph (II)(C) of this section applies to applicants or guarantors qualifying pursuant to subparagraph (II) only and does not affect the limitation set out in Section 806.309(j)(5)(A) for applicants or guarantors seeking acceptance of a self-bond pursuant to paragraphs i–iii or subparagraph (I) of this section.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Texas program amendment to provide the public an opportunity to reconsider the adequacy of the 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 Texas program.

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 Tulsa 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, to the extent allowed by law, 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 1255) 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 CFR 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 which 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 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 3, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95–25560 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 943

[SPATS No. TX–025–FOR]

Texas Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Texas regulatory program (hereinafter the ‘‘Texas program’’) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the recodification of the Texas Surface Coal Mining and Reclamation Act. The proposed amendment is intended to reclassify and rearrange the statutes into a format that will accommodate future expansion of the law and to eliminate repealed, invalid, and duplicative provisions in order to make the statutes more understandable and usable without altering the meaning or effect of the law.

DATES: Written comments must be received by 4 p.m., c.s.t., November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to speak at the hearing must be received by 4 p.m., c.s.t., on October 31, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, a listing of any scheduled public hearings, 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 Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135–6547, Telephone: (918) 581–6430.

Railroad Commission of Texas, Surface Mining and Reclamation Division, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the Texas program can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated August 24, 1995 (Administrative Record No. TX–594), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment at its own initiative. The proposed amendment concerns recodification of the Texas Surface Coal Mining and Reclamation Act (TSCMRA) as enacted by Senate Bill (SB) 959, 74th Texas Legislature (1995). SB 959 codified, with revisions, the TSCMRA at Chapter 134 of Title 4, Natural Resources Code, and it repealed Article 5920–11, Vernon's Texas Civil Statutes, with the exception of sections 11 (b), (c), and (d). Substantive revisions which pertain to the approved Texas program are discussed below.

1. Recodification

The substantive provisions in Article 5920–11, TSCMRA, sections 1 through 38, with the exception of sections 3(2), 3(7), 11(b)–(d), 18(d), 27(c), 34(b), and 35(4) are proposed to be recodified at Chapter 134 of Title 4, Natural Resources Code, TSCMRA, sections 134.001 through 134.188. Listed below are the existing Article 5920–11 section numbers with the new corresponding Chapter 134 section numbers.

Article 5920–11 Section	Chapter 134 Section
1	134.001.
2(1)–(5)	134.002.
2(5)(A)–(F)	134.003.
3(1)	134.004(2).
3(3)–(6)	134.004(3)–(6)
3(8)–(15)	134.004(8)–(15)
3(16)–(18)	134.004(18)–(20)
3(19)	134.004(16)
4(a)	134.012(a)(1).
4(b)	134.012(a)(2), (b)–(c).
4(c)	134.188
5	134.011.
6	134.013.
7	134.141.
8(a)	134.144.
8(b)	134.143.
8(c)	134.145.
8(d)	134.146, 147.
8(e)	134.148, 149.
9(a)	134.150.
9(b)	134.151.
10	134.152.
11(a)	134.051.
12(a)	134.071, 073
12(b)	134.072.
13(a)	134.074, 075.
13(b)	134.075(c).
13(c)	134.076.
13(d)	134.077, 078.
14(a)(1)–(a)(15).	134.052, 012(d).
14(a) (16)	134.031(a).
14(b)	134.031(b).
15(1)–(13)	134.041.
15(14)	134.031(c)
16	134.042.
17	134.057.
18(a)–(b)	134.054(a)–(c).
18(c)	134.055
19	134.056.
20(a)	134.058, 059, 060.
20(b)	134.061.
20(c)	134.062(a).
20(d)	134.062(b).
20(e)	134.063.
20(f)	134.064.
21(a)	134.065.
21(b)	134.066, 067, 012(d).
21(c)	134.068, 069.
21(d)	134.070.
22(a)	134.079, 080, 081, 076(a).
22(b)	134.083.

Article 5920–11 Section	Chapter 134 Section
22(c)	134.082(a).
23(a)	134.091.
23(b)	134.092(a).
23(b)(1)–(2).	134.092(a) (1)–(2).
23(b)(3)	134.092(a)(3), 093, 094.
23(b)(4)	134.092(a)(4).
23(b)(5)	134.092(a)(5), 095.
23(b)(6)	134.092(a)(6).
23(b)(7)	134.092(a)(7), 096 097.
23(b)(8)	134.092(a)(8).
23(b)(9)	134.092(a)(9), 098.
23(b)(10)	134.092(a)(10), 099.
23(b)(11)	134.092(a)(11).
23(b)(12)	134.092(a)(12), 100.
23(b)(13)	134.092(a)(13), 092(b).
23(b)(14)	134.092(a)(14).
23(b)(15)	134.092(a)(15), 101.
23(b)(16)	134.092(a)(16), 102.
23(b)(17)–(18).	134.092(a)(17)–(18).
23(b)(19)	134.092(a)(19), 103.
23(b)(20)	134.092(a)(20), 104, 105.
23(b)(21)	134.092(a)(21).
23(b)(22)	134.092(a)(22), 106.
23(b)(23)–25.	134.092(a)(23)–(25).
23(c)	134.107.
23(d)	134.108.
23(e)	134.109.
24	134.052(19), 053.
25(a)	134.121, 122.
25(b)	134.125, 126.
25(c)	134.123, 124.
25(d)	134.127.
26(a)	134.128, 129.
26(b)	134.130, 132(a).
26(c)	134.131.
26(d)	134.132(b).
26(e)	134.133.
26(f)	134.134.
27(a), (d)	134.014.
27(b)	134.031(d).
28	134.015.
29(a)	134.026.
29(b)	134.029.
29(c)	134.027.
29(d)	134.030.
29(e)	134.028.
29(f)	134.007.
30(a)	134.174.
30(b)	134.175.
30(c)	134.176.
30(d)	134.178.
30(e)	134.179.
30(f)	134.177.
30(g)	134.181.
30(h)	134.180.
31(a)	134.182(a).
31(b)	134.183(a)–(c).
31(c)(A)	134.183(d).
31(c)(B)	134.182(d).
31(d)(1)	134.184.
31(d)(2)	134.185.
31(e)	134.186.
31(f)	134.187.
31(g)	134.182(b) and (c), 184.
32(a)	134.161, 163.
32(b)	134.162, 163.
32(c)(1)	134.168, 169.
32(c)(2)	134.170.
32(c)(3)	134.171.
32(c)(4)	134.164(b) and (d).
32(c)(5)	134.172.
32(d)	134.164(a) and (b).
32(e)	134.165, 166, 167.
32(f)	134.173.
33(a)	134.016.
33(b)	134.020, 021.
33(c)	134.017, 018.
33(d)	134.019.
33(e)	134.022.
34(a)	134.023.
35(1)–(3)	134.005.
36	134.024.
37(a)	134.006.
37(b)	134.110.
38	134.025.

2. All references to the Texas Surface Coal Mining and Reclamation Act are proposed to be changed from ‘‘Act’’ to ‘‘chapter’’ throughout the recodified statutes.

3. All references to the ‘‘Administrative procedure and Texas Register Act, as amended’’ are proposed to be changed to ‘‘Chapter 2001, Government Code’’ throughout the recodified statutes.

4. Chapter 134, Section 134.004 (Article 5920–11, Sec. 3), Definitions

a. Texas is proposing to define ‘‘Affected person’’ at Chapter 134, section 134.004(1), as meaning ‘‘a person having an interest that is or may be affected.’’ Accordingly, all references to ‘‘a person having an interest that is or may be affected’’ are proposed to be changed to ‘‘affected person’’ throughout the recodified statutes.

b. Texas is proposing to remove its definition for ‘‘Applicant’’ at existing Article 5920–11, section 3(2). Therefore, this definition is not proposed to be recodified.

c. Texas is proposing to remove the language ‘‘and water impoundments may be permitted if the commission determines that they are in compliance with Section 23(b)(8) of this Act’’ from the definition of ‘‘Approximate original contour,’’ which is recodified at Chapter 134, section 134.004(3) (existing Article 5920–11, section 3(3)).

d. Texas is proposing to remove its definition for ‘‘Eligible land and water’’ at existing Article 5920–11, section 3(7). Therefore, this definition is not proposed to be recodified.

e. Texas is proposing to define ‘‘Federal Act’’ at Chapter 134, section 134.004(7), as meaning ‘‘the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. Section 1201 et seq.).’’ Consequently, all references to SMCRA are proposed to be changed to ‘‘federal Act’’ throughout the recodified statutes.

f. At Chapter 134, section 134.004(13) [existing Article 5920–11, section 3(13)], Texas is proposing to change the term ‘‘permittee’’ to ‘‘permit holder.’’ Accordingly, all references to ‘‘permittee’’ are proposed to be changed to ‘‘permit holder’’ throughout the recodified statutes.

g. Texas proposes to change the term ‘‘Secretary’’ to ‘‘Secretary of agriculture’’ at Chapter 134, section 134.004(16) [existing Article 5920–11, section 3(19)]. Consequently, all references to ‘‘secretary’’ are proposed to be changed to ‘‘secretary of agriculture’’ throughout the recodified statutes.

h. Texas proposes to define ‘‘Secretary of the interior’’ as meaning ‘‘the secretary of the United States Department of the Interior.’’ Accordingly, all references to ‘‘the secretary of the United States Department of the Interior’’ are proposed to be changed to ‘‘the secretary of the interior’’ throughout the recodified statutes.

5. Chapter 134, Sec. 134.012 and 134.188 (Article 5920–11, Sec. 4, as Amended by Acts 1983, 68th Legislature and Acts 1985, 69th Legislature), Jurisdiction

At Chapter 134, section 134.012(a)(2), (b), and (c) and section 134.188 [Article 5920–11, section 4(b) and (c), as amended by Acts 1983, 68th Legislature and Acts 1985, 69th Legislature], Texas proposes to add provisions for jurisdiction of the commission over iron ore, and iron ore gravel mining and reclamation operations. Section 134.012(a)(2) [Article 5920–11, section 4(b), as amended] would provide for exclusive jurisdiction over iron ore and iron ore gravel mining and reclamation operations in the State of Texas. Section 134.012(b) [Article 5920–11, section (4)(b), as amended] would provide for Chapter 134 to govern these operations to the extent it can be made applicable. Section 134.012(c) [Article 5920–11, section 4(1) and (2), as amended] would provide for exceptions for iron ore and iron ore gravel mining and reclamation activity in progress on or before September 1, 1985 or for iron ore and iron ore gravel mining operation and reclamation activity that is conducted solely on real property owned in fee simple by the person authorizing the operation or reclamation activity and that is confined to a single, contiguous tract of land if the activity is conducted in an area not larger than 20 acres, the depth of the mining operation is restricted to 30 inches or less, and the fee simple owner receives surface damages. Section 134.188 [Article 5920–11, section 4(c), as amended] would provide that it is a defense to a civil or criminal penalty under Chapter 134 that a person allegedly conducting an iron ore or iron ore gravel mining and reclamation operation in violation of Chapter 134 has a written general warranty of ownership of land, separate from any lease, from the person authorizing the operation./

6. At Chapter 134, section 134.057(b) [existing Article 5920–11, section 17(b)], Texas is proposing to add a new provision that specifies that subsection (b) does not apply to records, reports, inspection materials, or information that is confidential under section 134.031.

7. Chapter 134, Sections 134.054 and 134.055 (Existing Article 5920–11, Section 18, as Amended by Acts 1983, 68th Legislature and Acts 1985, 69th Legislature), Application Fees

a. At Chapter 134, section 134.054(b) [Article 5920–11, section 18(b), as amended (old section 18(a)], Texas proposes to change its minimum initial application fee for a permit from $1,000 to $5,000, require a minimum application fee of $3,000 for renewal of a permit, and require a minimum application fee of $500 for revision of a permit.

b. Texas proposes to remove the provision at Article 5920–11, section 18(d), as amended (old section 18(b)), that requires an application fee to be deposited in the state treasury and credited to the general revenue fund. Therefore, this provision is not proposed to be recodified at Chapter 134.

c. At Chapter 134, section 134.054(c) [Article 5920–11, section 18(b), as amended], Texas proposes to allow initial application fees and renewal application fees to be paid in equal annual installments during the term of the permit.

d. Texas proposes to add a new provision at Chapter 134, section 134.055 [Article 5920–11, section 18(c), as amended], that requires a permit holder to pay the commission an annual fee, in an amount determined by the commission, for each acre of land in the permit area on which the permit holder actually conducted operations for removing coal during the year; the fee is due by March 15 of the year following the year of the removal operations; and the minimum fee is $120 an acre.

8. Texas proposes to remove the provision in existing Article 5920–11, section 21(c), that requires an applicant to file a schedule listing notices of violation ‘‘of any department or agency in the United States.’’ Therefore, this provision is not proposed to be recodified at Chapter 134.

9. Texas proposes to remove the provision at existing Article 5920–11, section 27(c), that requires persons who conduct coal exploration operations that substantially disturb the natural land surface in violation of its statutes or rules to be subject to its civil penalty provisions. Therefore, this provision is not proposed to be recodified at Chapter 134.

10. Texas proposes to remove the provision at existing Article 5920–11, section 34(b), that requires any agency, unit, or instrumentality of federal, state, or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government, that proposes to engage in surface coal mining operations that are subject to the requirements of TSCMRA to comply with all provisions of TSCMRA. Therefore, this provision is not proposed to be recodified at Chapter 134.

11. Texas proposes to remove the provision at existing Article 5920–11, section 35(4), that exempts from the provisions of TSCMRA the extraction of coal incidental to the extraction of other minerals where the coal does not exceed 16⅔ percent of the total tonnage of coal and other minerals removed annually for purposes of commercial use or sale or coal explorations subject to TSCMRA. Therefore, this provision is not proposed to be recodified at Chapter 134, section 134.005.

III. Public Comment Procedures

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 Texas program.

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 Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t., on October 31, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the 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 speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak 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 speak 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 amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of 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, to the extent allowed by law, 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 1255) and 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 CFR 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 which 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 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 3, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95–25561 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL MARITIME COMMISSION

46 CFR Part 552

[Docket No. 95–15]

Availability of the Annual Financial and Operating Statements Filed by Domestic Offshore Carriers

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes amending its regulations governing the availability of the annual financial and operating statements filed by vessel-operating common carriers by water in the domestic offshore trades. Comments are sought on a proposal to allow access to the annual statements by the attorneys general of the non-contiguous states, territories, and possessions having ports in the trade served by the carrier. The proposed rule addresses a comment made in a prior proceeding by the State of Hawaii, and is intended to improve parties' access to the information while avoiding harm to a regulated carrier's competitive position.

DATES: Comments due November 15, 1995.

ADDRESSES: Comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington D.C. 20573–0001, 202–523–5725.

FOR FURTHER INFORMATION CONTACT:

Anne M. McAloon, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington D.C. 20573–0001, 202–523–5790

C. Douglass Miller, Office of the General Counsel, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington D.C. 20573–0001, 202–523–5740

SUPPLEMENTARY INFORMATION: On September 5, 1995, the Federal Maritime Commission (''FMC'' or ''Commission'') published a final rule in FMC Docket No. 94–07, Financial Reporting Requirements and Rate of Return Methodology in the Domestic Offshore Trades (''Docket 94–07''), which amended the provisions governing carriers' financial reporting requirements and rate of return methodology in the domestic offshore trades (60 FR 46047). Among other things, the rule changed the method of determining the reasonableness of a carrier's return on rate base from the comparable earnings test to the before-tax weighted average cost of capital methodology (''BTWACC'').

In comments on the proposed rule in Docket 94–07, the State of Hawaii (''Hawaii'') argued that the proposed BTWACC methodology would require that all interested parties have access to complete and accurate information regarding a carrier's financing and capitalization. Hawaii pointed out that the comparable earnings test, which was previously required to be used, does not rely on company-specific data because it uses a cost of capital estimate based on the rate of return of U.S. manufacturing firms in general. However, under the BTWACC methodology, Hawaii noted that carriers would be using company-specific data to compute their cost of capital and thus any meaningful rebuttal would require access to such information. Hawaii concluded therefore that: ''The Commission's current ruling that a carrier's annual financial report need not be made available to all parties, places the parties at a disadvantage because it is impossible to present meaningful rebuttal testimony without a carrier's cost of capital data.'' (Hawaii Initial Comments at 5).

The Commission's current regulations require the domestic offshore carriers to file financial and operating data under two circumstances—annually within 150 days after the close of the carrier's fiscal year and in support of any general rate increases. The annual statement of financial and operating data consists of a rate base exhibit and supporting schedules, an income account exhibit and supporting schedules, and a rate of return exhibit and supporting schedules. The annual statement is to be accompanied by a company wide balance sheet and income statement. The Commission's regulations, at 46 CFR 552.4(c), protect the carriers' annual reports from public disclosure and treats them as confidential information in the files of the Commission.

In support of general rate increases, domestic offshore carriers are required to file, pursuant to 46 CFR 552.2(f), the following material: an actual midyear rate base exhibit and supporting schedules for a twelve-month period commencing not more than fifteen months prior to the proposed increase; a projected midyear rate base exhibit and supporting schedules for a twelve-month period commencing on the first day of the month following the date on which the proposed increase will become effective; a projected income account exhibit and supporting schedules for the same period as the projected midyear rate base exhibit; actual and projected rate of return exhibits; and associated workpapers. In the event the general increase in rates is filed within six months of the end of the carrier's fiscal year, the regulated carrier may submit its annual report in lieu of the actual and projected income account exhibit. In addition, Rule 67 of the Commission's Rules of Practice and Procedure, 46 CFR 502.67, requires the carrier to file, under oath, testimony and exhibits constituting its direct case. Both the material submitted pursuant to 46 CFR 552.2(f) and the testimony and exhibits submitted pursuant to Rule 67 (which includes the 46 CFR 552.2(f) material) are public.

The Commission has traditionally recognized that disclosing the information contained in the domestic offshore carriers' annual reports (FMC Forms 377 and 378) to third parties may cause harm to the regulated carrier's competitive position. However, given the changes to the rate of return methodology made in Docket 94–07, the Commission believes that Hawaii's statement merits further consideration. For example, the BTWACC methodology prescribes the use of a proxy group to determine the cost of common-stock equity for a company that does not issue its own common-stock equity, and requires selection criteria for proxy group members which are based on information that may be available only from the annual reports (*e.g.*, annual income in the trade). Further, proxy group selection would most probably require historical information beyond that accompanying a general rate increase filing. Even if a carrier were to include all historical information it used in choosing a proxy group, other historical annual report information might suggest a different proxy group selection.

The Commission has found that most federal and state regulatory agencies do not consider the regulated companies' annual reports to be confidential. On the federal level, both the Federal Energy Regulatory Commission and the Federal Communications Commission consider the annual financial and operating reports of the regulated companies as public information. Likewise, of those state regulatory agencies requiring public utilities to file annual financial reports, the majority regard the contents of those reports to be public information.[1]

The Commission, therefore, is proposing to amend its rules to allow access to the annual reports by the attorneys general of noncontiguous states, commonwealths, possessions or territories having ports in the relevant trade served by the regulated carrier. The government officers and employees given access to the annual statements would be required to certify to the Commission that the information will not be disclosed to the public and will only be used in connection with analyzing the allowable rate of return for the regulated carrier in FMC proceedings. This should allow entities charged with protecting consumer welfare access to complete financial information concerning the carrier, while at the same time avoiding harm to the regulated carrier.

Commenters on this proposal are directed to specifically address the necessity of obtaining the information contained in the carriers' annual reports and whether that information may be obtained from other sources.

The Federal Maritime Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. The rule is procedural only and will provide certain parties with more complete information upon which to base a protest under section 3 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 845. This proposed rule does not contain a collection of information within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq., as implemented by regulations prescribed within 5 CFR Part 1320. Accordingly, OMB review is not required.

List of Subjects in 46 CFR Part 552

Maritime carriers, Reporting and recordkeeping requirements, Uniform system of accounts.

Therefore, pursuant to 5 U.S.C. 553, sections 18 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 817 and 841a, and sections 2 and 3 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844 and 845, Part 552 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

PART 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

1. The authority citation for Part 552 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 817(a), 820, 841(a), 843, 844, 845, 845a and 847.

2. In § 552.4 a new paragraph (d) is added to read as follows.

§ 552.4 Access to and audit of records

* * * * *

(d). The annual statements filed by the carriers with the Commission may be obtained from the Commission by the attorneys general of every noncontiguous State, Commonwealth, possession or territory having ports in the relevant trade that are served by the carrier, and the employees of such attorneys general, upon the submission of the following certification, under oath, to the Commission:

CERTIFICATION

I, (Name and title if applicable), of (Full name of entity), having been duly sworn, certify that the annual statements of (Name of Carrier) will be used solely in order to prepare protests to the Federal Maritime Commission (''FMC'') or to participate in FMC proceedings relating to (Name of Carrier) and that their contents will not be disclosed to any person who has not signed, under oath, a certification in the form prescribed, which has been filed with the Federal Maritime Commission, unless public disclosure is specifically authorized by an order of the Commission or the presiding officer in an FMC proceeding.

Signature: ______________________________

Date: ______________________________

Signed and sworn before me this ________ day of __________, 19______.

Notary Public: ___________________________

My Commission expires: _________________

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–25581 Filed 10–13–95; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 207, 209, 215, and 242

Defense Federal Acquisition Regulation Supplement; Precontractual Contract Administration

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to provide the contract administration component access to acquisition planning information, set forth the fact that costs or savings related to contract administration may be considered when

[1] See ''Table 59, Annual Accounting Report Forms,'' in Utility Regulatory Policy in the United States and Canada Compilation 1992–1993, National Association of Utility Regulatory Commissioners (''NAURC''), Washington, D.C., 1993, pp. 126–7.

evaluating a contractor's past performance, and establish as a contract administration function the providing of support to program offices and buying activities in precontractual efforts leading to a solicitation or award.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before December 15, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. R.G. Layser, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D015 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Rick Layser, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS Parts 207, 209, 215, and 242 to implement the recommendations of the Department of Defense Contract Administration Services Reform Process Action Team concerning involvement of contract administration activities early in the acquisition process.

B. Regulatory Flexibility Act

The proposed changes to the DFARS may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the changes specify that costs or savings related to contract administration may be considered when evaluating a contractor's past performance. Increased use of this evaluation factor is expected to have a beneficial impact on contractors with good past performance and a negative impact on contractors with poor past performance. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D015 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not impose any new recordkeeping, information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 207, 209, 215, and 242

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR Parts 207, 209, 215, and 242 be amended as follows:

PART 207—ACQUISITION PLANS

1. The authority citation for 48 CFR Parts 207, 209, 215, and 242 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 207.104 is added to read as follows:

207.104 General procedures.

(b) The planner should forward the requirements information to the contract administration organization when assistance in identification of potential sources of supply is necessary, when an existing contract is being modified or resolicited, or when contract administration resource requirements will be affected.

3. Section 207.105 is amended by revising the introductory text and adding paragraph (b)(17)(D) to read as follows:

207.105 Contents of written acquisition plans.

For acquisitions covered by 207.103(c)(i) (A) and (B), correlate the plan to the DoD Future Years Defense Program, applicable budget submissions, and the decision coordinating paper/program memorandum, as appropriate. It is incumbent upon the planner to coordinate the plan with all those who have a responsibility for the development, management, or administration of the acquisition. The acquisition plan should be provided to the contract administration organization to facilitate resource allocation and planning for the evaluation, identification, and management of contractor performance risk.

* * * * *

(D) *Contract administration.* Discuss the level of Government administration anticipated or currently performed and any change proposed by the contract administration office.

(b) * * *

(17) * * *

PART 209—RESPONSIBLE PROSPECTIVE CONTRACTORS

4. Section 209.103 is amended by adding paragraph (c) to read as follows:

209.103 policy.

* * * * *

(c) The additional cost of contract administration and audit due to a contractor's performance risk may be considered in evaluating the contractor's price.

PART 215—CONTRACTING BY NEGOTIATION

5. Section 215.605 is amended by adding immediately before paragraph (c)) paragraph (b)(S–70) to read as follows:

215.605 Evaluation factors.

(b) * * *

(S–70) The costs or savings related to contract administration may be considered when the contractor's past performance or performance risk is likely to result in significant costs or savings.

* * * * *

PART 242—CONTRACT ADMINISTRATION

6. Section 242.302 is amended by adding paragraph (a)(67) to read as follows:

242.302 Contract administration functions.

(a) * * *

(67) Also support program offices and buying activities in precontractual efforts leading to a solicitation or award.

* * * * *

[FR Doc. 95–25346 Filed 10–13–95; 8:45 am]

BILLING CODE 5000–04–M

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48 CFR Part 215

[DFARS Case 95–D006]

Defense Federal Acquisition Supplement Contracting by Negotiation

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Defense has decided to withdraw a proposed rule published on March 24, 1995 (60 FR 15528). The rule proposed DFARS revisions to allow the head of the contracting activity to determine the appropriate level for approval of second and subsequent rounds of best and final offers for competitive negotiated acquisitions under other than formal source selection. Public comments

received in response to the proposed rule indicated that industry did not support the proposed DFARS revisions.

FOR FURTHER INFORMATION CONTACT: Defense Acquisition Regulations Council, Attn: Ms. Melissa D. Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062, (703) 602–0131.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 95–25341 Filed 10–13–95; 8:45 am]

BILLING CODE 5000–04–M

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48 CFR Parts 242 and 252

Defense Federal Acquisition Regulation Supplement; Material Management and Accounting Systems (MMAS)

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comment.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to raise MMAS disclosure, demonstration, and maintenance threshold requirements; clarify circumstances under which contractors will be subject to MMAS disclosure, demonstration, and maintenance; and clarify MMAS provisions regarding material transfer methodologies and approved loan/pay-back techniques.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before December 15, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. R. G. Layser, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D029 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, Telephone (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

The Secretary of Defense recently commissioned a study to assess the effect of DoD regulations on the defense industry, measure the impact of those regulations on defense industry costs, and identify key cost drivers and describe their impact on contractor business processes. The material management and accounting system (MMAS) standards were among the top ten cost drivers identified in the study report. A working group was formed to evaluate the related findings and determine what actions, if any, might be appropriate to reduce the MMAS cost premium. One MMAS finding pertained to dollar thresholds that determine when MMAS requirements apply to defense contractors, and to criteria that determine the degree of MMAS disclosure and demonstration required. The working group determined that MMAS thresholds appeared to be outdated due to inflation and that disclosure, demonstration, and maintenance criteria could be more objective. Another finding pertained to the language at DFARS 252.242–7004(f)(7) regarding a loan/pay-back technique for material transfers, which appeared susceptible to misinterpretation. This proposed rule implements the working group's recommendations pertaining to MMAS requirements.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Although the proposed rule applies to small business under certain circumstances, only large businesses meeting certain dollar thresholds are required to demonstrate the degree to which their material management and accounting systems conform to the standards contained in the proposed rule. An Initial Regulatory Flexibility Analysis, therefore, has not been performed. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D029 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 242 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 242 and 252 are proposed to be amended as follows:

PART 242—CONTRACT ADMINISTRATION

1. The authority citation for Parts 242 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 242.7202 is amended by revising paragraph (d) to read as follows:

242.7202 Policy.

* * * * *

(d) Conforms to the standards at 252.242–7004(f) when the contractor has cost-reimbursement of fixed-price contracts greater than the simplified acquisition threshold in FAR part 13 with progress of other contract financing provisions, except when all of the contracts and subcontracts are awarded under the set-aside or Section 8(a) procedures of FAR part 19.

3. Section 242.7203 is revised to read as follows:

242.7203 MMAS disclosure, demonstration, and maintenance requirements.

(a) A large business contractor is subject to MMAS disclosure, demonstration, and maintenance if in its preceding fiscal year the contractor received DoD prime contracts or subcontracts (including modifications) totaling—

(1) $70 million or more; or

(2) $30 million or more (but less than $70 million), and the contracting officer determines it to be in the best interests of the Government (e.g., contractor disclosure, demonstration, or other activities indicate significant MMAS problems exist).

(b) After the administrative contracting officer determines the contractor's MMAS is adequate (see 242.7204(b)), written disclosure will not be required for the next MMAS review unless the contractor's policies, procedures, or practices have changed in the interim period(s). Similarly, once the contractor demonstrates that its MMAS contains no significant deficiencies, demonstration requirements for subsequent reviews may be satisfied if internal audits are reasonably current and contain sufficient transaction tests to demonstrate MMAS compliance with each standard.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 252.242–7004 is amended by revising paragraphs (f)(7)(i) and (f)(7)(iii) introductory text to read as follows;

252.242–7004 Material management and accounting system.

* * * * *

(f) * * *

(7) * * *

(i) The Contractor shall maintain and disclose written policies describing the transfer methodology and the loan/payback technique.

(ii) * * *

(iii) The system should transfer parts and associated costs within the same billing period. In the few instances where this may not be appropriate, the Contractor may accomplish the material transaction using a loan/payback technique. The loan/pay-back technique means that the physical part is moved temporarily from the contract but the cost of the part remains on the contract. The procedures for the loan/pay-back technique must be approved by the Administrative Contracting Officer. When the technique is used, the Contractor shall have controls to ensure—

* * * * *

[FR Doc. 95–25343 Filed 10–13–95; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AD30

Public Use Regulations for the Alaska Peninsula/Becharof National Wildlife Refuge Complex

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On July 17, 1995, the Service published a proposed rule in the Federal Register (60 FR 36576), establishing Fish and Wildlife Service regulations and implementing portions of the ‘‘Alaska Peninsula/Becharof National Wildlife Refuge Complex Public Use Management Plan.’’ The comment period on that rulemaking closed on September 15, 1995. This rule reopens the comments period for an additional 45 days to allow additional review and comment by interested groups and persons.

DATES: Comments and materials will be accepted until October 30, 1995.

ADDRESSES: Comments should be addressed to Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503, Attn: Bob Stevens.

FOR FURTHER INFORMATION CONTACT: Ronald Hood, Refuge Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex; telephone: (907) 246–3339.

SUPPLEMENTARY INFORMATION: In the July 17, 1995, issue of the Federal Register, 60 FR 36576, the Service published a proposed rulemaking that would allows the Service to manage public uses by adopting regulations addressing off-road vehicles, camping, and temporary facilities. The regulations will provide for continued public use of the refuge complex while protecting refuge resources and resolving conflicts. The Service proposed that the public comment period end on September 15, 1995. Local residents, potentially affected by these regulations are not available during that time to review the document and offer comments. The re-opening of the comment period allows the opportunity to conduct public meetings in the local communities at a time when the residents will be present. The comment period is therefore re-opened for an additional 45 days.

Dated: September 29, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–25515 Filed 10–13–95; 8:45 am]
BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 951005246–5246–01; I.D. 072895B]

RIN 0648–AI12

Fisheries for the Gulf of Mexico and South Atlantic Migratory Groups of King Mackerel; Control Date

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

ACTION: Advance notice of proposed rulemaking; consideration of a control date.

SUMMARY: This notice announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) are considering whether there is a need to impose additional management measures limiting entry into the fisheries for the Gulf of Mexico and South Atlantic migratory groups of king mackerel in the exclusive economic zone (EEZ) in the Gulf of Mexico and South Atlantic, and, if there is a need, what management measures should be imposed. If it is determined that there is a need to impose additional management measures, the Councils may initiate a rulemaking to do so. Possible measures include the establishment of a limited entry program to control participation or effort in the commercial and for-hire (charter and headboat) fisheries for Gulf group king mackerel and for the commercial fisheries for Atlantic group king mackerel. If a limited entry program is established, the Councils are considering October 16, 1995, as a possible control date. Consideration of a control date is intended to discourage new entry into the fisheries based on economic speculation during the Councils deliberation on the issues.

DATES: Comments must be submitted by November 15, 1995.

ADDRESSES: Comments should be directed to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609 or the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), developed by the Gulf of Mexico and South Atlantic Councils, is implemented through regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act. For management purposes, the FMP recognizes two migratory groups of king mackerel: The Atlantic and Gulf of Mexico groups. The management area for the Gulf of Mexico migratory group (Gulf group) extends from the United States/ Mexico border to the Florida seasonal boundaries: Flagler/Volusia County off Florida’s northeast coast from November 1 through March 31 and Collier/Monroe County off Florida’s southwest coast from April 1 through October 31. The management area for the Atlantic migratory group (Atlantic group) extends from the Florida seasonal boundaries to the New York/ Connecticut border.

To rebuild overfished stocks, the Gulf Council has recommended implementation of restrictive total allowable catches (TACs) since 1985 to constrain harvest of Gulf group king mackerel. Recently, the South Atlantic Council recommended lowering the TAC for the Atlantic group for the 1995–

96 fishing year to a level that provides a commercial allocation (2.7 million lb (1.2 million kg)) that has been reached or exceeded in 4 of the past 9 years under FMP quota management. Despite these restrictions, participation in the commercial and recreational fisheries has continued to increase. From 1988 to 1994, the total number of vessels holding Federal commercial mackerel permits increased 102 percent, from 1,280 to 2,588. The commercial fleet has demonstrated capacity to harvest quotas for the Gulf group quickly when king mackerel become seasonally available.

The Gulf Council, with some success, has employed area and gear allocations and trip limits to equitably distribute the king mackerel catch throughout the season among an increasing number of participants. As a result of recent quota reductions, the South Atlantic Council is considering similar measures for the Atlantic group king mackerel. Despite the implementation of regulations to control harvest and user groups, unexpected shifts in effort and quota distribution and early closures of Gulf group fisheries have required emergency actions to avert potential negative socioeconomic impacts. In recent years, the western zone (state and Federal waters off Texas, Louisiana, Mississippi, and Alabama) quota has been taken in about 3 months (July through September), and this year it was taken by September 4, 1995, just over two months after the July 1 fishery opening. The two newly established gear quotas for the Florida west coast sub-zone for the Gulf group also are taken quickly. The gillnet quota (432,500 pounds) was taken last season in less than 3 weeks in January after migrating fish became available on south Florida's overwintering grounds. Also, the hook-and-line quota (432,500 lb (196,179 kg)) was taken mostly off northwest Florida early in the season as a result of an unexpected increase in fishing effort. Subsequently, the fishery was closed December 20, 1994, before king mackerel migrated to traditional fishing grounds off southwest Florida. To avert socioeconomic hardships among southwest Florida participants, the fishery was reopened by emergency rulemaking from February 1–21 with a 300,000-lb (136,078–kg) supplemental quota.

In 1995, the Gulf Council's industry advisory panel requested that the Gulf Council consider a long-term solution to management problems resulting from increased participation in the fishery. The panel suggested development of limited access alternatives, and the Gulf Council's Socioeconomic Panel also recommended a limited access program. The Gulf and South Atlantic Councils previously considered these management approaches and established a control date of July 2, 1993 (58 FR 35914, July 2, 1993) for king and Spanish mackerel in the Gulf of Mexico and Atlantic. The July 2, 1993, control date remains in effect for the Gulf and Atlantic groups of Spanish mackerel. Subsequent efforts to develop limited access alternatives were delayed or deferred.

Implementation of an effort limitation program for the EEZ would require preparation of an FMP amendment by both Councils and publication of a proposed implementing rule with a public comment period. NMFS' approval of the amendment and issuance of a final rule would also be required.

As the Councils consider management options, including limited entry or access-controlled regimes, some fishermen who do not currently harvest Gulf or Atlantic group king mackerel, and have never done so, may decide to enter the fishery for the sole purpose of establishing a record of commercial landings or for-hire recreational participation. When management authorities begin to consider use of a limited access management regime, this kind of speculative entry often is responsible for a rapid increase in fishing effort in fisheries that are already fully developed or overdeveloped. The original fishery problems, such as overcapitalization or overfishing, may be exacerbated by the entry of new participants.

In order to avoid this problem, if management measures to limit participation or effort in the fishery are determined to be necessary, the Councils are considering October 16, 1995, as the control date. After that date, anyone entering the commercial or for-hire (charter and headboat) fisheries for Gulf group king mackerel or the commercial fishery for Atlantic group king mackerel may not be assured of future participation in the respective fishery if a management regime is developed and implemented limiting the number of fishery participants.

Consideration of a control date does not commit the Councils or NMFS to any particular management regime or criteria for entry into the fisheries for Gulf or Atlantic group king mackerel. Fishermen are not guaranteed future participation in these fisheries regardless of their entry date or intensity of participation in these fisheries before or after the control date under consideration. The Councils may subsequently choose a different control date or they may choose a management regime that does not make use of such a date. The Councils may choose to give variably weighted consideration to fishermen active in the fisheries before and after the control date. Other qualifying criteria, such as documentation of commercial landings and sales and for-hire charter and headboat participation, may be applied for entry. The Councils also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

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

Dated: October 10, 1995.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–25526 Filed 10–13–95; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 656

[I.D. 092595C]

Atlantic Striped Bass Fisheries; Public Hearings

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

ACTION: Notice of additional public hearing; request for comments.

SUMMARY: On September 29, 1995, NMFS announced two public hearings to receive comments from fishery participants and other members of the public regarding proposed regulations on the harvest and possession of striped bass in the exclusive economic zone of the Atlantic Ocean from Maine through North Carolina. NMFS now is announcing that it intends to hold one additional public hearing.

To accommodate people unable to attend a hearing who wish to provide additional comments, NMFS also has solicited written comments on the proposed rule.

DATES: Written comments on the proposed rule must be received on or before October 27, 1995. The hearings are scheduled as follows:

1. October 12, 1995, 7 to 9 p.m., Manteo, NC
2. October 16, 1995, 7 to 9 p.m., Toms River, NJ
3. October 25, 1995, 7 to 9 p.m., Plymouth, MA

ADDRESSES: Written comments should be sent to William Hogarth, Office of Fisheries Conservation and Management (F/CM), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope ''Atlantic Striped Bass Comments.''

The hearings will be held at the following locations:

1. Manteo—North Carolina Aquarium, Roanoke Island, Manteo, NC 27954

2. Toms River—Ocean County Administration Building, 101 Hooper Ave., Room 119, Toms River, NJ 08754

3. Plymouth—Plymouth N. High School, Obery Street, Plymouth, MA 02360

FOR FURTHER INFORMATION CONTACT: William Hogarth at 301–713–2339.

SUPPLEMENTARY INFORMATION: The initial hearing announcement was published on September 29, 1995 (60 FR 50540).

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule published September 27, 1995 (60 FR 49821), and is not repeated here. A copy of the proposed rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see **FOR FURTHER INFORMATION CONTACT**).

The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids for the Plymouth, MA public hearing should be directed to William Hogarth by October 20, 1995 (see **ADDRESSES**).

Authority: 16 U.S.C. 1851 note.

Dated: October 10, 1995.

Richard H. Schaefer,

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

[FR Doc. 95–25517 Filed 10–10–95; 4:53 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 199
Monday, October 16, 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

Alaska Region; Legal Notices Required Under 36 CFR Part 215

AGENCY: USDA Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with 36 CFR Part 215, Deciding Officers in the Alaska Region will publish Notices of Proposed Actions and Notices of Decisions Subject to Administrative Appeal in the Legal Notice Section of the newspapers listed in the Supplementary Information Section of the Notice. As provided in 36 CFR 215.5, such notices shall constitute legal evidence that the agency has given timely and constructive Notice of Proposed Actions and Notice of Decisions Subject to Administrative Appeal. Newspaper publication of Notices of Proposed Actions and Notices of Decisions is in addition to direct notice to persons who have requested notice in writing and to persons known to be interested in or affected by a specific proposal or decision.

DATES: Use of these papers for purposes of publishing Legal Notices of Proposed Actions and Notices of Decisions Subject to Administrative Appeal shall begin October 2, 1995.

FOR FURTHER INFORMATION CONTACT: Cherie Shelley, Regional Appeals Coordinator, Alaska Region, USDA Forest Service, EPB, P.O. Box 21628, Juneau, Alaska 99802, Telephone (907) 586–8855.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Alaska Region will give Legal Notices of Proposed Actions and Notices of Decisions Subject to Administrative Appeal in the following newspapers which are listed by Forest Service administrative 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 Proposed Actions and Notice of Decisions Subject to Administrative Appeal. As provided at 36 CFR 215.6, the timeframe for public comment on proposed actions shall be based on the date of publication of a Notice of Proposed Action in the primary newspaper. As provided at 36 CFR 215.13, the timeframe for appeal shall be based on the date of publication of a Notice of Decision in the primary newspaper.

Decisions by the Regional Forester

''Juneau Empire,'' published daily except Saturday and official holidays in Juneau, Alaska, for decisions affecting National Forest System lands in the State of Alaska and for any decision of Region-wide impact. ''Anchorage Daily News,'' published daily in Anchorage, Alaska, for decisions affecting National Forest System lands in the State of Alaska and for any decisions of Region-wide impact.

Decisions by the Chugach Forest Supervisor and the Glacier District Ranger, Chugach National Forest

''Anchorage Daily News,'' published daily in Anchorage, Alaska.

Decisions by the Cordova District Ranger, Chugach National Forest

''Anchorage Daily News,'' published daily in Anchorage, Alaska. ''Cordova Times,'' published weekly in Cordova, Alaska.

Decisions by the Seward District Ranger, Chugach National Forest

''Anchorage Daily News,'' published daily in Anchorage, Alaska. ''Seward Phoenix Log,'' published weekly in Seward, Alaska. ''Peninsula Clairion,'' published daily except Saturday, Sunday, and official holidays in Kenai, Alaska.

Decisions by the Chatham Area Forest Supervisor, the Yakutat District Ranger, the Hoonah District Ranger, the Juneau District Ranger, and the Admiralty National Monument Ranger, Chatham Area of the Tongass National Forest

''Juneau Empire,'' published daily except Saturday and official holidays in Juneau, Alaska.

Decisions by the Sitka District Ranger, Chatham Area of the Tongass National Forest

''Daily Sitka Sentinel,'' published daily except Saturday, Sunday, and official holidays in Sitka, Alaska.

Decisions by all Deciding Officers of the Ketchikan Area of the Tongass National Forest

''Ketchikan Daily News,'' published daily except Sunday and official holidays in Ketchikan, Alaska.

Decisions by the Stikine Area Forest Supervisor and the Petersburg District Ranger, Stikine Area of the Tongass National Forest

''Petersburg Pilot,'' published weekly in Petersburg, Alaska.

Decisions by the Wrangell District Ranger, Stikine Area of the Tongass National Forest

''Wrangell Sentinel,'' published weekly in Wrangell, Alaska.

Dated: October 3, 1995.

Phil Janik,

Regional Forester.

[FR Doc. 95–25496 Filed 10–3–95; 8:45 am]

BILLING CODE 3410–11–M

Pine Creek Evaporation Pond

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an environmental impact statement for a proposal to construct a 115 acre foot evaporation pond on a Federal mill site claim in Pine Creek, Inyo County, California. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by November 1, 1995.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Dennis W. Martin, Forest Supervisor, Inyo National Forest, 873 N. Main Street, Bishop, California 93514.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Vernon McLean, Forest Geologist, Inyo National Forest, 873 N. Main Street, Bishop, California 93514, phone 619–873–2424.

SUPPLEMENTARY INFORMATION: U.S. Tungsten Corporation has submitted a plan of operations, as directed by 36 CFR 228, to construct an evaporation pond on a Federal mill site. The evaporation pond will facilitate meeting water quality requirements while increasing production from the U.S. Tungsten facility.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternatives for this site. One of these will be no construction of the pond.

Dennis W. Martin, Forest Supervisor, Inyo National Forest, Bishop, California, is the responsible official.

The Forest Service is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes: (1) Identifying potential issues; (2) Identifying issues to be analyzed in depth; (3) Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis; (4) Exploring additional alternatives; (5) Identifying potential environmental effects of the proposed action and alternatives (i.e, direct, indirect, and cumulative effects and connected actions); (6) Determining potential cooperating agencies and task assignments.

The draft environmental impact statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by October 31, 1995. At that time EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by September 1996. The Forest Service is required to respond in the FEIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR 215.

Dated: October 6, 1995.

Dennis W. Martin,

Forest Supervisor.

[FR Doc. 95–25484 Filed 10–13–95; 8:45 am]

BILLING CODE 3410–11–M

Seed Orchard Pest Management Program in the Oconto River Seed Orchard, Nicolet National Forest, Oconto County, WI

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare a draft and final environmental impact statement (EIS) on a proposed action to develop an integrated pest management program at the Oconto River Seed Orchard near White Lake, Wisconsin. The Forest Service invites written comments on the scope of the analysis. In addition, the Forest Service gives notice of the environmental analysis and decisionmaking process that will occur on the proposed action so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis should be received in writing, on or before November 15, 1995, to ensure timely consideration.

ADDRESS: Send written comments to: Seed Orchard EIS Project, Oconto River Seed Orchard, 18100 Saul's Spring Road, White Lake, WI 54491.

FOR FURTHER INFORMATION CONTACT: Bill Sery, Oconto River Seed Orchard Manager, (715) 276–7400.

SUPPLEMENTARY INFORMATION: The Oconto River Seed Orchard is managed for the production of Jack pine, white pine, red pine, white spruce, black spruce, and tamarack seed. The seed is used to produce seedlings for the National Forests in the Lake States region. The primary objective of the orchard is to produce seed of high quality and sufficient quantity to meet Forest Service needs. A portion of the seed orchard is under management of a special use permit for the production of agricultural crops and seed. Use of current pest management technology and products is necessary in order to achieve these goals.

The Forest Service will conduct an environmental analysis to determine what type of integrated pest management program will be used at the Oconto River Seed Orchard near White Lake, Wisconsin, to produce seed for the National Forests in Wisconsin, Michigan, and Minnesota, and to protect agricultural investments. The pest management practices that will be analyzed include, but are not limited to, control of unwanted vegetation by mechanical and chemical methods; control of diseases using sanitation and biological control organisms; control of insect pests with biological and chemical insecticides, and use of sanitation; and control of animal pests through mechanical and preventative measures.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternative pest management programs. One alternative will be no action. Another alternative will be a pest management program without the use of chemical pesticides. Other alternatives will be pest management programs comprised of various combinations of control methods.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7), which includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the environmental impact statement.
3. Defining the proper make-up of the interdisciplinary team.
4. Exploring possible alternatives.
5. Identifying potential environmental effects.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations interested in or affected by the proposed action.

Public participation will be solicited by notifying in person and/or by mail known interested and affected publics and key contacts of the scope of the analysis. In addition, news releases will be used to give the public general notice. One public meeting was already held at the Oconto River Seed Orchard on September 21 and others can be held as needed. Input from interested people and organizations will be used in preparation of the draft environmental impact statement.

The preliminary issues identified are: (1) The effect of seed orchard pesticides on human health and the environment; (2) the impact of pest management activities on threatened and endangered species and non-target organisms; (3) the effect of pest management activities on the surrounding community's lifestyle; and (4) the effectiveness of pest control methods.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by August of 1996. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the Federal Register.

The comment period on the draft environmental impact statement will be 45 days from the date the EPA's notice of availability appears in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at the time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council of Environmental Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Following the comment period on the draft environmental impact statement, comments will be analyzed, considered, and responded to by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by February of 1997.

The responsible official will consider the comments and responses; environmental consequences discussed in the environmental impact statement; and applicable laws, regulations, and policies in making a decision regarding this proposal. The decision and reasons for the decision will be documented in the Record of Decision. That decision will be subject to appeal in accordance with 36 CFR part 217.

Jack G. Troyer, Forest Supervisor, Nicolet National Forest, in Wisconsin, is the responsible official.

Dated: October 2, 1995.

Jack G. Troyer,

Forest Supervisor.

[FR Doc. 95–25497 Filed 10–13–95; 8:45 am]

BILLING CODE 3410–11–M

Sequoia National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) on a proposed Amendment to the Land and Resource Management Plan (LRMP) to clarify the standards and guidelines under which commercial livestock grazing may be managed on the Sequoia National Forest, Tulare County, California.

ADDRESSES: Submit written comments and suggestions to the responsible official Del A. Pengilly, Acting Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Porterville, California 93257–2035.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed Amendment to Julie Allen, Land Management Planning Officer, Sequoia National Forest, 900 W. Grand Avenue, Porterville, California 93257–2035, telephone (209) 784–1500.

SUPPLEMENTARY INFORMATION: The Sequoia National Forest proposes to amend the standards and guidelines in its LRMP in regards to commercial livestock grazing and to evaluate this proposal in an EIS. A range of alternatives for this proposed amendment will be considered and documented in the EIS. One of these will be a no action/no change alternative, essentially leaving the current Land and Resource Management Plan in place. Other alternatives will propose to adopt standards and guidelines regarding commercial livestock grazing including the grazing related portions of the 1990 Mediated Settlement Agreement as is or with modifications.

Intensive scoping for this proposed Forest Plan amendment was done in March and April of 1995. At that time it was thought that this amendment would be analyzed in documented as an environmental assessment. Given the scope of the proposal, and a desire to provide additional procedural opportunities for comment, the Forest Supervisor has decided to document this analysis in an environmental impact statement. By this notice, further scoping comments are invited from any who might not have commented before. Those who have, need not do so again. All input from the public will be considered in preparation of the draft environmental impact statement (DEIS).

The draft EIS (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by November 1995. At that time EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the DEIS will be 45 days from the date that EPA's Notice of Availability appears in the Federal Register. It is very important that those interested in the management of the Sequoia National Forest participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). Comments should refer to specific pages or chapters of the DEIS.

Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage, but that are not raised until after completion of the final EIS, may be waived or dismissed by the courts, *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period on the DEIS so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period for the draft EIS ends, the comments received will be analyzed and considered by the Forest Service in the preparation of the Final EIS.

Dated: October 6, 1995.

Juliet B. Allen,

Acting Forest Supervisor.

[FR Doc. 95–25486 Filed 10–13–95; 8:45 am]

BILLING CODE 3410–11–M

Notice of Intent To Prepare a Supplemental Environmental Impact Statement To Disclose the Environmental Impacts of Proposed Changes to the Kensington Gold Mine Project; Tongass National Forest, Chatham Area, Juneau Ranger District, Juneau, AK

AGENCY: Forest Service, USDA.

ACTION: Notice, intent to prepare a supplemental environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the USDA Forest Service, Chatham Area, under the direction of the Juneau Ranger District, will prepare a supplemental environmental impact statement (SEIS) to analyze and display the effects of proposed changes to the Kensington Gold Project, located on public and private lands in southeastern Alaska. The proposed mine is operated by Coeur Alaska and is located approximately 45 miles north of downtown Juneau. The Record of Decision for the original Final Environmental Impact Statement was signed on January 29, 1992.

DATES: Comments will be accepted throughout the EIS process but, to be most useful during the analysis they should be received in writing by October 30, 1995.

ADDRESSES: Written comments and suggestions concerning the analysis should be sent to Roger Birk, Minerals Management Specialist, Juneau Ranger District, 8465 Old Dairy Road, Juneau, Alaska, 99801.

FOR FURTHER INFORMATION CONTACT: Roger Birk, Minerals Management Specialist, Juneau Ranger District, 8465 Old Dairy Road, Juneau, Alaska 99801; phone (907) 586–8800; fax (907) 586–8808.

SUPPLEMENTARY INFORMATION: The proposed operations are subject to approval of a Plan of Operations under 36 CFR, Part 228, which is intended to ensure that adverse environmental effects on National Forest System lands and resources are minimized. The proposed changes to the project's Plan of Operations include the following:

1. Advanced water treatment of the flotation tailings and dewatered CIL effluent with underground tailings disposal.
2. Avalanche control and management.
3. Discharge of treated tailings pond effluent to Sherman Creek with flow augmentation to meet end-of-pipe discharge standards.
4. New laydown area/helicopter pad relocation.
5. Use of diesel fuel for power generation rather than LPG (liquified petroleum gas).
6. Temporary construction camp.

The purpose and need for the proposed amendments to the Plan of Operations is to reduce potential impacts to commercial fisheries from a mixing zone in saltwater, reduce risks from avalanches, and increase the economic efficiency of the mine.

In addition to the Forest Service, the Environmental Protection Agency and U.S. Army Corps of Engineers have jurisdiction and will participate as cooperating agencies in the preparation of the SEIS. The Forest Service has agreed to be the lead agency. EPA will be responsible for assuring that the analysis provides sufficient information for issuance of a National Pollutant Discharge Elimination System permit under authority of the Clean Water Act. The Corps will be responsible for ensuring that the analysis provides sufficient information for issuance of a Section 404 of the Clean Water Act permit, Section 10 of the Rivers and Harbors Act of 1899 permit, and for compliance with Executive Order 11990 and 11900 for wetlands and floodplains. Memorandums of Understanding will be initiated with both of the cooperating agencies.

The decision to be made is whether or not to approve the Plan of Operations as amended or require the operator to revise its proposal. The original FEIS analyzed the effects of developing the Kensington Gold Project. The SEIS will analyze only the effects of the proposed changes to the Plan of Operations.

Key resources to be analyzed include water quality from the discharge to Sherman Creek; impacts to wetlands; impacts to fisheries from the discharge; visual and water quality effects and stability of disturbed areas such as the laydown area, new fuel tank sites, and avalanche control areas; air quality effects from diesel power generation; spill potential and effects of hauling and handling additional diesel fuel.

Gary A. Morrison, Forest Supervisor, Tongass National Forest, Chatham Area, is the responsible official.

The Forest Service is seeking information and comments from

Federal, State, and local agencies as well as individuals and organizations who may be interested in, or affected by the proposed action. Public scoping meetings are planned for Juneau at Centennial Hall from 2 p.m. until 7 p.m. on Wednesday, October 11 and in Haines at the Council Chambers in City Hall from 2 p.m. until 7 p.m. on Thursday, October 12. If weather precludes travel to Haines on the 12th, the meeting will be held October 19 instead.

The draft supplemental environmental impact statement should be available for public review by December 15, 1995. The comment period on the draft supplemental environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after the completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final supplemental environmental impact statement is scheduled to be completed by February 15, 1996. The Forest Supervisor for the Chatham Area of the Tongass National Forest will, as the responsible official for the EIS, make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final SEIS, and applicable laws, regulations, and policies. The decision and supporting reasons will be documented in a Record of Decision.

Dated: September 29, 1995.

Gary A. Morrison,

Forest Supervisor.

[FR Doc. 95–25512 Filed 10–13–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 60–95]

Foreign-Trade Zone 50, Long Beach, CA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Long Beach, California, grantee of FTZ 50, requesting authority to expand its zone at a site in San Bernardino, California, within the Los Angeles-Long Beach Customs port of entry area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 5, 1995.

FTZ 50 was approved on September 14, 1979 (Board Order 147, 44 F.R. 55919, 9/28/79) and expanded three times (Board Orders 298, 341 and 494). The zone project currently includes 3 general-purpose sites in the Los Angeles/Long Beach Customs port of entry area: *Site 1* (12 acres)—Parcel 1–A, 1500 West Dominguez St., Long Beach and Parcel 1–B, 727 Capital Drive, San Pedro; *Site 2* (1,855 acres)—California Commerce Center, Ontario; *Site 3* (92 acres)—including parcels within the Inter-City Commuter Station Redevelopment area in Santa Ana and, a warehouse facility at 3000 and 3100 Segerstrom Avenue and 2900 and 2930 South Fairview Street, within the South Harbor Redevelopment area, Santa Ana.

The applicant is now requesting authority to expand the zone to include an additional site (proposed *Site 4*—175 acres) within the 2,300-acre San Bernardino International Airport and Trade Center complex (formerly Norton Air Force Base) in San Bernardino, California. A 2.5 million square foot WorldPointe Center for International Trade is planned for the proposed zone site (located at the northwest corner of Mill Street and Tippecanoe Avenue). The developer of this project is the Inland Valley Development Agency. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 15, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 2, 1996.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 11000 Wilshire Boulevard, Room 9200, Los Angeles, California 90024

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 6, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–25606 Filed 10–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 59–95]

Foreign-Trade Zone 8, Toledo, OH; Proposed Foreign-Trade Subzone BP Exploration & Oil Inc. (Oil Refineries); Lucas, Allen and Wood Counties, OH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Toledo-Lucas County Port Authority, grantee of FTZ 8, requesting special-purpose subzone status for the oil refinery system of BP Exploration & Oil Inc., located at sites in Lucas/Allen/Wood Counties (Toledo and Lima areas), Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 5, 1995.

BP's Ohio refinery facilities consist of three sites which operate as an integrated system: *Site 1* (142,000 barrels per day (BPD); 649 acres)—Toledo refinery and petrochemical feedstock complex located at 4100 Cedar Point Road (including a tank farm adjacent to the refinery on Buckeye Road), in the city of Oregon, Lucas County; *Site 2* (170,000 BPD; 650 acres)—Lima refinery and petrochemical feedstock complex, located some 80 miles south of the Toledo refinery at 1150 South Metcalf Road along the Ottawa River in Shawnee Township, Allen County; *Site 3* (17 acres)—crude oil tank farm located midway between the refineries at 12716 Tank Farm Road, city of Cygnet, Wood County.

The refineries (1,000 employees) are used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, jet fuel, distillates, residual fuels, and naphthas. Petrochemicals include methane, ethane, butane, propane, toluene, benzene, and xylene. Refinery by-products include petroleum coke, asphalt and carbon black. Approximately one-quarter of the crude oil (nearly all of inputs) and some feedstocks are sourced abroad.

Zone procedures would exempt the refineries from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refineries' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 15, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 2, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Bank One Center, 600 Superior Ave., Suite 700, Cleveland, Ohio 44114

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 5, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–25610 Filed 10–13–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–122–006]

Steel Jacks From Canada; 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: The Department of Commerce (the Department) is conducting an administrative review of the antidumping finding on steel jacks from Canada. The review covers two manufacturer/exporters of this merchandise to the United States, New-Form Manufacturing Co., Ltd. (NFM) and Seeburn Metal Products (Seeburn). The period covered is September 1, 1993 through August 31, 1994. The review indicates the existence of dumping margins for this period.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, 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) 482–0665 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 17, 1966, the Treasury Department published in the Federal Register (31 FR 7485) the antidumping finding on steel jacks from Canada. Based on a timely request for review, we initiated an administrative review of two firms, NFM and Seeburn, on November 14, 1994 (59 F.R. 56549), for the 1993–1994 period of review (POR), in accordance with 19 CFR § 353.22(c). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are multi-purpose hand-operated heavy-duty steel jacks, used for lifting, pulling, and pushing, measuring from 36 inches to 64 inches high, assembled, semi-assembled and unassembled, including jack parts, from Canada. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 8425.49.00. The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers two manufacturer/exporters, NFM and Seeburn. The POR is September 1, 1993, through August 31, 1994.

Seeburn

On February 3, 1995, the Department determined that the products imported by Seeburn were automobile tire jacks outside the scope of the antidumping finding on steel jacks from Canada. Therefore, because Seeburn had no shipments of subject merchandise during the POR and Seeburn has never before been reviewed, we are assigning Seeburn the ''all others'' rate.

United States Price (USP)

Because NFM sold all its merchandise to unrelated U.S. customers prior to importation, we based USP on purchase price in accordance with section 772(b) of the Act. We calculated purchase price based on prices that were either F.O.B. or delivered to the customers' premises. In accordance with section 772(d)(2) of the Act, we adjusted USP for discounts, brokerage and handling, foreign and U.S. inland freight, and customs duty, where applicable. Since NFM did not report customs duty for U.S. sales which were delivered to customers' premises, the Department used the Customs duty rate applicable for this merchandise.

We adjusted USP for taxes in accordance with our practice as outlined in *Silicomanganese From Venezuela; Preliminary Determination of Sales at Less than Fair Value,* 59 F.R. 31204 (June 17, 1994) (*Silicomanganese*).

No other adjustments were claimed or allowed.

Foreign Market Value (FMV)

Based on a comparison of the volume of home market and third-country sales, we determined that NFM's home market was viable in accordance with 19 CFR § 353.48. Therefore, in accordance with section 773 of the Act, we compared U.S. sales of subject merchandise with sales of such or similar merchandise in the home market. We calculated FMV using monthly weighted-average prices of sales of identical jacks.

FMV was based on packed, delivered home market prices, with deductions for discounts, foreign inland freight and insurance, home market credit expenses, rebates, and home market packing, in accordance with Section 773(a)(1) and (a)(4) of the Act. In accordance with section 773(a)(1) of the Act, we added U.S. packing, credit, warehousing, and commissions to FMV. We did not offset U.S. commissions by deducting home market indirect selling expenses up to the amount of U.S. commissions, as we normally do pursuant to section 353.56(b)(1) of the Department's regulations, because the respondent's claimed indirect selling expenses were calculated using unsupported estimates.

We included in FMV the amount of value-added taxes collected in the home market, in accordance with our practice as outlined in *Silicomanganese*. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of USP to FMV, we preliminarily determine that the following dumping margins exist for the POR:

Review period	Manufacturer/exporter	Margin (percent)
9/1/93–8/31/94	NFM	28.49
	Seeburn ...	*28.35

*No shipments or sales subject to this review; because this firm has never been reviewed, rate is the all others rate explained in (4) below.

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 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. The Department will publish a notice of the final results of this administrative review, which will include the results of its analyses of issues raised in any such case briefs or at a hearing.

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, and will remain in effect until publication of the final results of the next administrative review:

(1) The cash deposit rates for the reviewed companies shall be the 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 their previously established company-specific rate published for the most recent period;

(3) if the exporter is not a firm covered in this review, prior reviews, or the original less-than-fair-value (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;

(4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the ''all others'' rate established in the first review conducted by the the Department in which an ''all others'' rate was established, as discussed below.

On May 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council* v. *United States,* 822 F. Supp. 766 (CIT 1993), and *Federal Mogul Corporation and the Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993), decided that once an ''all others'' rate is established for a company it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders.

In proceedings governed by antidumping findings, unless we are able to ascertain the ''all others'' rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the ''all others'' rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors or as a result of litigation) for the purposes of establishing cash deposit rates in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty finding and we are unable to ascertain the ''all others'' rate from the Department of Treasury LTFV investigation, the Department has determined to apply the ''all others'' rate of 28.35 percent established in the first final results published by the Department (52 F.R. 32957, September 1, 1987).

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 these review periods. 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 this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–25609 Filed 10–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–001]

Leather Wearing Apparel From Mexico; Partial Termination of Countervailing Duty Administrative Review and Termination of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of partial termination of countervailing duty administrative review and termination of new shipper countervailing duty administrative review.

SUMMARY: On May 15, 1995, in response to a request from the Government of

Mexico (GOM), the Department of Commerce (the Department) initiated an administrative review of the countervailing duty order on leather wearing apparel from Mexico for 115 producers, covering the period January 1, 1994 through December 31, 1994 (60 FR 25885) (amended September 1, 1995; 60 FR 45697). We are now terminating that review for the 112 producers listed in the appendix hereto because the GOM is no longer interested in the review of these companies.

On June 1, 1995 (60 FR 28576), also in response to a request from the GOM, the Department initiated a new shipper review, under the same order, for Comercial de Artesanias, S.A. de C.V. The review covered the period November 1, 1994 through April 30, 1995. Because the GOM withdrew its request for review, we are now terminating this review.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1995, the Department received a request from the GOM for an administrative review of the countervailing duty order on leather wearing apparel from Mexico in accordance with § 751(a)(1) of the Tariff Act of 1930, as amended (the Act), covering the period January 1, 1994 through December 31, 1994. On June 19, 1995, in order to comply with the requirements of the Department's *Interim Regulations* (May 11, 1995; 60 FR 25130), the GOM submitted an amended request for review which listed 115 companies. No other party requested a review of these companies. On May 15, 1995, the Department published in the Federal Register (60 FR 25885) a notice of ''Initiation of Countervailing Duty Administrative Review,'' which was amended on September 1, 1995 (60 FR 45967) to list the names of the companies requested to be reviewed.

On May 1, 1995, the Department received from the GOM a request for a new shipper review in accordance with § 751(a)(2)(B) of the Act, under this countervailing duty order, to be conducted for Comercial de Artesanias, S.A. de C.V. On June 1, 1995, the Department published in the Federal Register (60 FR 28576) a notice of ''Initiation of New Shipper Countervailing Duty Administrative Review'' of Comercial de Artesanias, S.A., covering the period November 1, 1994 through April 30, 1995.

On September 6, 1995, the GOM attempted to withdraw its request for an administrative review of 111 companies listed in the appendix and its request for a new shipper review of Comercial de Artesanias, S.A. On September 21, 1995, the GOM attempted to withdraw its request for an administrative review of Exclusivos Baez, also listed in the appendix. The Department's regulations stipulate that the Secretary may permit a party that requests a review to withdraw the request not later than 90 days after the date of publication of the notice of initiation of the requested review. 19 CFR 355.22(a)(3)(1995). While the withdrawal deadline for the GOM's request of administrative and new shipper reviews expired in August, the regulation also provides that the Secretary may extend the time limit for withdrawal of a request if it is reasonable to do so.

Because no significant work has been completed on these reviews, extending the time limit for the GOM to withdraw its requests for reviews does not unduly burden the Department. Moreover, we have received no objections to terminating these reviews from other interested parties. Therefore, under the circumstances presented in these cases, we are waiving the 90-day requirement of section 355.22(a)(5). Accordingly, based on the GOM's withdrawals, we are terminating the 1994 administrative review with respect to the companies listed in the appendix and the new shipper review of Comercial de Artesanias, S.A.

This notice is published in accordance with 19 CFR § 355.22(a)(5).

Dated: October 6, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Appendix

Aeroenvios
Aguilla Alvarez Juan Martin
Alarcon Roman Pedro
Alfredo Costuras Originales, S.A. de C.V.
Alorsa
Alvarez Contreras Gildardo
Articulos Charros Y Vaqueros, S.A. de C.V.
Articulos de Piel Chasser
Articulos de Piel de Guadalajara, S.A. de C.V.
Articulos de Piel Muca, S.A. de C.V.
Arufe Gil Ma. Josefina
Avila Lopez Ma. Teresa
Bemisa, S.A. de C.V.
Bocanegra Morales Rosa Isela
Calzado Emege, S.A. de C.V.
Comercial de Artesanias, S.A. de C.V.
Capelli
Carillo Castillo Agustin
Cia. Exportadora de Chapala, S.A. de C.V.
Club Aurrera
Collado Garza Manuel Fernando
Confecciones en Piel Leather S.A. de C.V.
Cornell Piel, S.A. de C.V.
Creaciones Alcala
Creaciones Cevis, S.A. de C.V.
Creaciones Cozumel, S.A. de C.V.
Creaciones de Esesarte
Creaciones Kity Ku
Creaciones Ma Elvi
D'Vany
Deitz Groswirte Gregoria
Eugenio de Alba Hernandez
Exclusive Design in Leather Felle, S de R.L.
Exclusivos Baez
Export. Mexic. de Art. Charros Y Vaqueros, S.A. de C.V.
Exportadores Indios Verdes, S.A. de C.V.
Fina Estampa
Flores Martinez Ma. Azucena
Frausto Avila Julia
Gallardo Rocio
Garcia Avila Enrique
Garcia Gonzalez Antonia
Garcia Gonzalez Juan Manuel
Garcia Jose
Geno D'Lucca
Gil Garcia Benjamin
Gonzalo de La Torre Jose de Jesus
Gover
Grupo Ticuan S.A. de C.V.
Hardo Navarro Vincente
Harnandez Gonzalez Lino Salvador
Hernandez Herrera Jose de Jesus
Hernandez Rodriquez Ma. Teresa de Jesus
Hurtado Antonio
Hurtado Vazquez Francisco Javier
Importaciones Y Exportacones Anaf, S.A. de C.V.
Ind. en Piel de Mexico, S.A. de C.V.
Lazo
Lopez Avila J. Cruz
Lorendano, S.A. de C.V.
Lusomoda De Mexico, S.A. de C.V.
Manufacturera California, S.A. de C.V.
Manufacturera de Botas Tejas, S.A. de C.V.
Manufacturera de Cintos, S.A. de C.V.
Marcelinni, S.A. de C.V.
Marco Antonio Sotelo Salazar
Martinez Bautista Noe
Martinez Castillo Roberto
Martinez Fernandez Guillermo
Maurizzio Moda Y Piel, S.A. de C.V.
Melmex, S de R.L. de C.V.
Mex Piel Export
Mexican Legend
Moda en Piel Le Sua, S.A. de C.V.
Mon Real
Monaco, S.A. de C.V.
Mora Hernandez Ismael
Morales Nernandez Bartolo
Munoz Armas Federico
Neca De Baja California, S.A. de C.V.
Orginales Hechos A Mano, S.A. de C.V.
Orozco Alviso J. Cruz
Peleteria Jalisco de Baja California, S.A. de C.V.
Penilla Adolpho
Pieles Monroy, S.A. de C.V.
Procopiel Exotica, S.A. de C.V.
Propuctora de Articulos de Piel Gerpa
Promociones La Fiesta, S.A. de C.V.
Promotora de Modas Masculinas, S.A. de C.V.
Quintana Aguirre Martin

Ramos Rosa
Rios Bueno Salvador
Rodriquez Jarez Jose Luis
Rodriquez Ortiz Guadalupe
Rougon Piel
Salceda Toledo Leonel
San Sebastian Curte, S.A. de C.V.
Serrano Robles Martin Humberto
Servicio Harley Davidson, S.A. de C.V.
Sidransky Marcus Alejandro
Sotelo Jose
Tapetei Tipicos, S.A. de C.V.
Torres Torres Juan Antonio
Transformadora Tuca, S.A. de C.V.
Tropico Arte Y Piel
United Parcel Service de Mexico, S.A. de C.V.
Vincente Haro Navarro
Vilches Mares Laura
Zaragoza Gutierrez Ricardo
Zedillo Lagos Teresa
John Trackunan George
Zuid de Mexico, S.A. de C.V.

[FR Doc. 95–25611 Filed 10–13–95; 8:45 am]

BILLING CODE 3510–DS–P

The University of Iowa, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–044. *Applicant:* The University of Iowa, Iowa City, IA 52242. *Instrument:* Laser Light Scattering Correlator and Monomode Fiber Optical Goniometer System. *Manufacturer:* ALV - Laser Vertriebsgesellschaft mbH, Germany. *Intended Use:* See notice at 60 FR 33190, June 27, 1995. *Reasons:* The foreign instrument provides: (1) simultaneous measurements of dynamic light scattering and static light scattering, and (2) a monomode fiber optical collection system. *Advice Received From:* National Institutes of Health, September 14, 1995.

Docket Number: 95–064. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Force and Moment Wind Tunnel Balance. *Manufacturer:* Aertect A.T.E. Ltd., United Kingdom. *Intended Use:* See notice at 60 FR 40824, August 10, 1995. *Reasons:* The foreign instrument provides: (1) capability to change load ranges without removing load cells, (2) load cell and attack angle accuracy of 0.05% at full scale range and (3) computer - controlled angle of attack. *Advice Received From:* National Aeronautics and Space Administration, September 21, 1995.

The National Institutes of Health and National Aeronautics and Space Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–25605 Filed 10–13–95; 8:45 am]

BILLING CODE 3510–DS–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University.

ACTION: Board of visitors meeting.

SUMMARY: The first meeting of The Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Radisson Plaza Hotel, 5000 Seminary Road, Alexandria, Virginia on Monday, November 6, 1995 from 0830 until 1600. The purpose of this first meeting of the BoV is to familiarize the members with the Charter of the BoV, DAU operations, and strategic plans. The agenda will include: election of a BoV chairperson; briefing on the DAU structure within the Office of the President; and briefings by each of the schools within the DAU Consortium of Schools.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: October 10, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–25534 Filed 10–13–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Education Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: October 31, 1995

TIME: 4 p.m. (et).

LOCATION: National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet October 31, 1995 from 4 p.m. until 5:30 P.M. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The purpose of this meeting to establish the agenda for the November 16–18, 1995 meeting of the Board scheduled to be held in Seattle, Washington.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of

Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 95–25557 Filed 10–13–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Certification of the Radiological Condition of the Baker and Williams Warehouses Site, New York, NY, 1991–1993

AGENCY: Office of Environmental Management, Department of Energy (DOE).

ACTION: Notice of certification.

SUMMARY: The Department has completed remedial action to decontaminate warehouses (Buildings 513–519, 521–527, and 529–535 West 20th Street) in New York, New York, and the certification docket is available. Two of the three warehouses were found to contain radioactive surface contamination from short-term storage of uranium concentrates for the Manhattan Engineer District (MED). Radiological surveys show that the site now meets applicable requirements for unrestricted use.

ADDRESSES:

Public Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585

Public Document Room, Oak Ridge Operations Office, U.S. Department of Energy, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: James W. Wagoner II, Director, Off-Site/Savannah River Program Division, Office of Eastern Area Programs, Office of Environmental Management (EM–421), U.S. Department of Energy, Washington, DC 20585, (301) 903–2531 Fax: (301) 903–2461.

SUPPLEMENTARY INFORMATION: The Department's Office of Environmental Management has implemented a remedial action project at the former Baker and Williams Warehouses Site, 513–535 West 20th Street, New York, New York, as part of the Formerly Utilized Sites Remedial Action Program (FUSRAP). The objective of the program is to identify and clean up or otherwise control sites where residual radioactive contamination remains from activities carried out under contract to the Manhattan Engineer District (MED) and the Atomic Energy Commission (AEC) during the early years of the Nation's atomic energy program. In June 1990, the Baker and Williams Warehouses Site was designated for cleanup under an expedited protocol.

During the early 1940s, the former Baker and Williams Warehouses Site was a delivery point for uranium for subsequent distribution to U.S. Government facilities. Since the 1940s, the warehouses have been leased by several businesses.

At DOE's request, in 1989 and 1991, representatives of the Environmental Survey and Site Assessment Program of Oak Ridge Associated Universities (now known as the Oak Ridge Institute for Science and Education (ORISE)) conducted designation surveys of the property. The surveys indicated that the site contained residual radioactive contamination from MED/AEC activities. In 1991, ORISE conducted characterization surveys of Buildings 521–527 and 529–535 and accessible surfaces in Building 513–519. Surface scans of Building 529–535 did not identify any residual contamination. Remedial actions at Buildings 521–527 and 513–519 were conducted by Bechtel National, Inc., from April 1 through April 26, 1991, and from May through July 1993, respectively.

Post-remedial action surveys have demonstrated, and DOE has certified, that the subject property is in compliance with DOE residual radioactive contamination criteria and standards, which are established to protect members of the general public and occupants of the site and to ensure that future use of the property will result in no radiological exposure above applicable guidelines to the general public or the site occupants. These findings are supported by the DOE *Certification Docket for the Remedial Action Performed at the Baker and Williams Site in New York, New York, 1991–1993.* Accordingly, this property is released from FUSRAP.

The certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays) in the U.S. Department of Energy Public Reading Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. Copies of the certification docket will also be available in the DOE Public Document Room, U.S. Department of Energy, Oak Ridge Operations Office, Oak Ridge, Tennessee.

The Department through the Oak Ridge Operations Office, Former Sites Restoration Division, has issued the following statement:

Statement of Certification: Baker and Williams Warehouses Site Former MED Operations

The U.S. Department of Energy (DOE), Oak Ridge Operations Office, Former Sites Restoration Division, has reviewed and analyzed the radiological data obtained following remedial action at the Baker and Williams Warehouses site, (Block 692; Lots 15, 19, and 23; New York County. Based on analysis of all data collected, DOE certifies that the following property is in compliance with DOE radiological decontamination criteria and standards. This certification of compliance provides assurance that future use of the property will result in no radiological exposure above applicable guidelines established to protect members of the general public or site occupants.

Property owned by Mr. Rouhollah Kalimian: Baker and Williams Warehouses, 513–535 West 20th Street, New York, New York 10011.

Issued in Washington, DC on October 5, 1995.

James Owendoff,

Deputy Assistant Secretary for Environmental Restoration.

[FR Doc. 95–25592 Filed 10–13–95; 8:45 am]

BILLING CODE 6450–01–P

Record of Decision Dual Axis Radiographic Hydrodynamic Test Facility

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: The Department of Energy (DOE) is issuing this Record of Decision (ROD) regarding the DOE's proposed Dual Axis Radiographic Hydrodynamic Test (DARHT) facility at Los Alamos National Laboratory (LANL) in northern New Mexico. DOE has decided to complete and operate the DARHT facility at LANL while implementing a program to conduct most tests inside steel containment vessels, with containment to be phased in over ten years. The environmental analysis to support this decision was issued by DOE in the August 1995, DARHT Facility Final Environmental Impact Statement (EIS), DOE/EIS–0228, which identified the Phased Containment Option of the Enhanced Containment Alternative as DOE's preferred alternative. DOE has decided to implement the preferred alternative.

DATES: This ROD is effective immediately. On January 27, 1995, DOE was enjoined from further procurement or construction of the DARHT facility pending completion of the DARHT EIS and this ROD. Actions to implement this ROD will not occur unless and until the injunction is dissolved; DOE will seek immediate dissolution of the injunction.

ADDRESSES: Requests for copies of the DARHT EIS or this ROD should be addressed to: Ms. Elizabeth Withers, NEPA Compliance Officer, Los Alamos Area Office, Department of Energy, 528 35th Street, Los Alamos NM 87544. Ms. Withers may be contacted by telephone at (505) 667–8690 or by facsimile at (505) 665–4872.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, Department of Energy, 1000 Independence Avenue SW., Washington DC 20585. Ms. Borgstrom may be contacted by leaving a message at (800) 472–2756 or by calling (202) 586–4600.

SUPPLEMENTARY INFORMATION:

Background

DOE is responsible for ensuring that the United States nuclear weapons stockpile remains safe, secure, and reliable. As part of its mission to ensure the safety and reliability of the weapons in the stockpile, DOE and its predecessor agencies have conducted a hydrodynamic testing program at LANL since the late 1940's. The existing hydrodynamic testing facility at LANL is the Pulsed High-Energy Radiation Machine Emitting X-Rays (PHERMEX), which has been in operation since 1963. In 1983, DOE began hydrodynamic testing operation of the Flash X-Ray (FXR) facility at the Lawrence Livermore National Laboratory (LLNL) in California.

In September 1992, President Bush declared a moratorium on all nuclear testing by the United States. In July 1993, President Clinton extended the moratorium, and in August 1995 the President announced that the United States will seek a ''zero-yield'' Comprehensive Test Ban Treaty. He further stated that the conduct of a science-based stockpile stewardship program is a condition of U.S. entry into such a treaty.

PHERMEX and FXR historically have been used in conjunction with underground nuclear testing to identify and correct potential problems with the stockpile. Neither PHERMEX nor FXR can provide the degree of radiographic resolution, x-ray intensity, or three-dimensional or time-sequenced views that are needed to provide answers to current questions regarding weapons condition or performance necessary for science-based stockpile stewardship. Although DOE expects to operate and upgrade the FXR facility as described in section 3.3.4 of the final EIS, and also expects to operate and appropriately upgrade PHERMEX until use of the latter is phased out after initial DARHT operation, neither facility can fully meet DOE's purpose and need to provide enhanced high-resolution radiography capability. In addition to its radiographic performance limitations, PHERMEX is over thirty years old, and DOE does not expect it to remain a viable facility over an extended time because of the increasing difficulty and cost of maintaining and operating the facility as it ages.

To conduct an effective science-based stockpile stewardship program, DOE needs to obtain an enhanced capability to conduct radiographic hydrodynamic tests and dynamic experiments. The capability to obtain high-resolution, multiple-time, multiple-view information is needed to assess the safety, performance, and reliability of nuclear weapons; evaluate aging weapons; obtain information about plutonium through dynamic experiments; and for other uses. Such an enhanced capability cannot be obtained at either PHERMEX or FXR, as currently configured. Accordingly, DOE has decided to complete and operate the DARHT facility to provide an enhanced high-resolution radiographic capability to perform hydrodynamic tests and dynamic experiments in support of its historical mission and the near-term stewardship of the nation's nuclear weapons stockpile.

DOE began construction of the DARHT facility in April 1994. In October 1994, three citizen groups requested of the Secretary of Energy that DOE prepare an EIS on the DARHT facility, and halt further construction until an EIS was completed. On November 16, 1994, two of these groups filed suit in the United States District Court for the District of New Mexico, seeking to enjoin DOE from proceeding with the DARHT project until completion of an EIS and associated ROD. On November 22, 1994, DOE published a notice of its intent to prepare the DARHT EIS [59 FR 60134]. On January 27, 1995, the court issued a preliminary injunction of further construction of the DARHT facility, and related activities such as the procurement of special facility equipment, pending completion of the EIS and ROD. The court entered final judgment on May 5, 1995. No construction or procurement for DARHT has taken place since January 27, 1995; in January and February, 1995, DOE took actions allowed by the court to stabilize the construction site.

The DARHT EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 et seq.], the Council on Environmental Quality NEPA regulations [40 CFR Parts 1500–1508] and the DOE NEPA regulations [10 CFR Part 1021]. DOE issued the final *DARHT Facility Environmental Impact Statement,* DOE/EIS–0228, in August 1995 following the issuance of the draft DARHT EIS for public review in May 1995. The Environmental Protection Agency published its Notice of Availability regarding the final DARHT EIS on September 8, 1995 [60 FR 46833].

The DARHT EIS includes a classified supplement that provides additional information and analyses. The NEPA regulations provide that EISs which address classified proposals may be restricted from public dissemination; however, the document may be organized so that classified information is segregated in order that the unclassified portions can be made available to the public [40 CFR Part 1507.3(c); 10 CFR Part 1021.340(a)]. NEPA's public disclosure requirements are subject to the exceptions spelled out in the Freedom of Information Act (FOIA) [5 U.S.C. 552; 42 U.S.C. 4332(2)(c)]. FOIA exempts materials from public disclosure where specified by statute. Under the Atomic Energy Act [42 U.S.C. 2011 et seq.], material pertaining to nuclear weapons design or related national security matters is classified and exempted from public disclosure under FOIA and therefore under NEPA. Accordingly, DOE prepared a classified supplement to the DARHT EIS, and relied on information in that supplement to make this decision. The classified supplement has been withheld from public dissemination, but DOE provided the draft classified supplement for review by appropriately cleared representatives of parties with a need to know the classified information. These representatives include the Department of Defense, the Environmental Protection Agency, the State of New Mexico and certain American Indian tribal governments, so that in accordance with the provisions of NEPA, these government agencies could ensure that the public health and welfare are being adequately protected.

DOE invited the public to comment on the adequacy and accuracy of the draft EIS, and on any other matter concerning the DARHT review. The public comment period on the draft DARHT EIS ended on June 26, 1995;

DOE held public hearings on the draft EIS in Los Alamos, New Mexico, on May 31, 1995, and in Santa Fe, New Mexico, on June 1, 1995. The final DARHT EIS includes transcripts of the public hearings and copies of written comments, and explains how DOE considered all comments received.

Alternatives Considered

The DARHT EIS analyzed six alternative ways to implement DOE's proposed action to obtain enhanced radiographic capability. DOE considered, but did not analyze in detail, other alternatives which DOE determined would not meet the Department's purpose and need for enhanced testing capability.

Certain aspects of the DOE hydrodynamic testing and dynamic experiment program would not change regardless of the course of action selected, and were considered to be common to all alternatives. These include: the way hydrodynamic tests are conducted; the conducting of contained dynamic experiments with plutonium; infrastructure requirements; continued operation of the FXR Facility at LLNL; continued operation of the LANL Radiographic Support Laboratory at Technical Area 15; waste management considerations; decontamination and decommissioning considerations; and other operational and site characteristics of LANL. (Aside from the provisions in this ROD regarding PHERMEX and DARHT, this ROD does not affect operation of any other facility at LANL or any other DOE site, including the continued operation of the FXR facility at LLNL or the continued operation of the Radiographic Support Facility at LANL.)

Alternatives analyzed in the DARHT EIS are as follows:

—No Action Alternative. DOE would continue to use PHERMEX at LANL and FXR at LLNL in support of its stockpile stewardship mission. The DARHT structure would be completed for other uses.

—DARHT Baseline Alternative. DOE would complete and operate the DARHT facility and phase out operations at PHERMEX, but would not pursue a program of enhanced containment.

—Upgrade PHERMEX Alternative. The DARHT facility would be completed for other uses. DOE would construct major upgrades at PHERMEX, including installing the high-resolution radiography planned for DARHT and constructing a second accelerator for two-axis imaging.

—Enhanced Containment Alternative. DOE would complete and operate the DARHT facility and phase out operations of PHERMEX as under the DARHT Baseline Alternative; in addition, some or all tests would be conducted inside a containment vessel or structure. Three options were considered: (1) Vessel Containment Option (most tests would be contained in modular steel vessels, starting with operation of the first axis of DARHT); (2) Building Containment Option (all tests would be contained inside a permanent building starting with operation of the first axis of DARHT); and (3) Phased Containment Option, the DOE's preferred alternative (most tests would be contained in modular steel vessels, to be implemented over a ten-year period). Under options 1 and 3, DOE would construct and operate a Vessel Cleanout Facility to clean the portable steel vessels and recycle materials as appropriate; under option 2, DOE would construct and operate a separate cleanout facility to assist in maintaining the containment building and recycling materials as appropriate.

—Plutonium Exclusion Alternative. DOE would implement the DARHT Baseline Alternative; however, plutonium would not be used in any of the experiments at DARHT. Under this alternative, in the future, DOE may perform some dynamic experiments with plutonium; those involving radiography would be conducted at PHERMEX and would be contained in double-walled vessels.

—Single Axis Alternative. DOE would implement the DARHT Baseline Alternative; however, only one accelerator hall (single axis) would be operated for hydrodynamic tests or dynamic experiments. The other hall would be completed for other uses.

Environmentally Preferable Alternative

While some of the alternatives analyzed in the DARHT EIS were unacceptable in that they did not meet programmatic needs, none posed unacceptable environmental impacts. The analyses in the DARHT EIS indicate very little difference in the environmental impacts among the alternatives analyzed. The major discriminators would be contamination of soils near the firing point, health effects to workers, and the amount of construction materials consumed. After consideration of the environmental impacts identified through the EIS, DOE has determined that the three options of the Enhanced Containment Alternative, including DOE's preferred alternative (the Phased Containment Option), would be somewhat environmentally preferable. These three options, particularly the building containment option, would result in considerably less release of depleted uranium and other metals to the general environment than would the other alternatives analyzed (including No Action because of the continued use of PHERMEX). However, these options would result in a higher radiation dose to workers over the life of the project compared to the other alternatives analyzed (although the dose would be well below regulatory and administrative limits). The benefit of reducing the amounts of materials released is directly related to DOE's responsibility for environmental stewardship and the desire to minimize cleanup activities at the end of the facility's lifetime.

Environmental Impacts of Alternatives

DOE weighed environmental impacts as one factor in its decision making process regarding the DARHT facility. DOE considered the impacts from construction and operation of alternative facilities, and the consequences that might be expected under accident scenarios. After consideration of the environmental impacts identified and analyzed in the DARHT EIS, DOE concludes that for the most part, environmental impacts would be expected to be similar among all six of the alternatives analyzed. None of these alternatives would present an unacceptable level of adverse environmental impact to the human environment.

DOE analyzed the potential impacts that might occur to land resources, air quality, noise, water resources, soils, biotic resources, cultural resources, socioeconomics, and human health. DOE considered impacts that might occur from use of plutonium; facility accidents, and transportation of radioactive materials. DOE considered the amount of waste that would be generated under different alternatives; irreversible or irretrievable commitments of resources; and the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity. For all alternatives analyzed, DOE determined that some contamination of soils could occur and would present an unavoidable adverse impact.

Most impacts identified were essentially the same for all alternatives analyzed. For the Vessel Containment Option and the Phased Containment Option, one additional acre of land would be disturbed to construct the Vessel Cleanout Facility. All three options under the Enhanced Containment Alternative would result in less materials dispersed (the amount of depleted uranium released to the environment is of particular interest because of its potential to result in soil or water contamination); therefore, soils and water resources would be less contaminated under that alternative. Under the postulated testing program analyzed in the DARHT EIS, the amount of materials released from the firing point under any of the action alternatives would be 15% lower than under the No Action Alternative. Because all of the action alternatives would provide an enhanced radiographic capability, less material would need to be expended to obtain more and better data. An even greater reduction would be achieved under the Enhanced Containment Alternative options (a total of 95% reduction for Building Containment, 75% for Vessel Containment, and 50% for Phased Containment). Annual releases of depleted uranium would be up to 90 pounds (41 kilograms) under the Building Containment Option; up to 450 pounds (205 kilograms) under the Vessel Containment Option; and up to 720 pounds (327 kilograms) (averaged over the lifetime of the project with a range of from 1,460 pounds [664 kilograms] to 450 pounds [205 kilograms] per year) under the Phased Containment Option. Under the other five alternatives, up to 1,540 pounds (700 kilograms) would be released annually. Compared to the other five alternatives, the Enhanced Containment Alternative would result in an unquantified beneficial impact to noise levels, wildlife habitat and cultural resources; the benefit would be greatest under the Building Containment Option.

The adverse impact to the health of the uninvolved public would be less under the Enhanced Containment Alternative than the other five alternatives: the dose to the affected population would be 8 person-rem over the 30-year life of the project under the Building Containment Option, 13 person-rem under the Vessel Containment Option, and 17 person-rem under the Phased Containment Option, compared to 30 person-rem under all other alternatives. However, due to the concentration of depleted uranium and other hazardous materials inside the Vessel Cleanout Facility, the health hazard to workers would be greater under the three options of the Enhanced Containment Alternative when compared to the other alternatives, although doses would be well below regulatory and administrative limits. The average annual dose to workers under the three options of the Enhanced Containment Alternative would be 0.6 rem compared to 0.3 rem for the other five alternatives and the collective dose over the 30-year life of the project would be 60 person-rem compared to 9 person-rem. No additional latent cancer fatalities would be expected over 50 years to the general population or workers under normal operations under any of the six alternatives analyzed.

Under the accident scenarios examined, an unexpected high-explosives detonation would result in 15 fatalities (all personnel present) at the facility under all alternatives analyzed. No additional latent cancer fatalities would be expected over 50 years among members of the general public from accidental release of depleted uranium under any of the alternatives. Between 5 and 12 additional latent cancer fatalities could occur from the accidental release of vaporized plutonium. Such an accident is extremely unlikely (estimated to occur once in every 10,000 to 1,000,000 years).

The two alternatives involving major additional construction (the Upgrade PHERMEX Alternative and the Building Containment Option of the Enhanced Containment Alternative) would result in considerably greater commitment of construction resources (concrete and diesel fuel); the Vessel Cleanout Facility under the Vessel Containment Option and the Phased Containment Option would result in a slightly greater commitment of construction resources.

Socioeconomic impacts would vary for each alternative, primarily driven by duration and timing of new construction and whether PHERMEX would be phased out of operation. More people would be employed under any other alternative than under the No Action Alternative. The Vessel Containment Option would result in the greatest increase in employment (321 additional full-time jobs generated in the regional economy). Under the Plutonium Exclusion Alternative, 273 additional jobs would be generated, compared with 253 under the Phased Containment Option, 238 under the Building Containment Option, 199 under the Upgrade PHERMEX Alternative, 191 under the DARHT Baseline Alternative and 104 under the Single Axis Alternative.

Review of Final EIS

DOE distributed approximately 800 copies of the final EIS to the State of New Mexico, American Indian tribal governments, local governments, other federal agencies, and the general public. The United States Environmental Protection Agency commented that selection of the Phased Containment Option as the preferred alternative should provide additional environmental protection over the life of the project. No other written comments specific to the final DARHT EIS were received. However, the U.S. Fish and Wildlife Service, in a letter to DOE dated September 12, 1995, clarified the language of its August 3, 1995 letter regarding mitigation measures to protect the nesting habitat of the Mexican spotted owl, a federally-listed threatened species. (The August 3, 1995 letter concurred with the DOE determination that operation of DARHT would not be likely to adversely affect the Mexican spotted owl, and the September 12, 1995 letter does not affect that concurrence.)

A member of the public telephoned DOE and pointed out a typographic and calculational error in the tables regarding air quality in the final EIS. An error was noted in the conversion of the three-hour standard for sulfur dioxide from parts per million to micrograms per cubic meter in calculating the percent of regulatory standard in conjunction with potential air quality impacts. The corrected calculated percent of regulatory standard is a factor of 10 higher for sulfur dioxide concentrations. For tables S–1, 3–3, and C1–8 the percent of regulatory standard in the most restrictive case increases from 2.2 to 22%; this is constant across all alternatives and does not change the overall analysis of air quality impacts. In addition, the caller pointed out a typographic error in table 5–1 regarding the calculated annual concentration of nitrogen dioxide; it should be 0.04 micrograms per cubic meter rather than 0.004. None of these changes affect the results of the environmental analysis.

DOE also identified an additional typographic error in the document. The DARHT EIS provides a comparison of costs for the reader's information; there is an inconsistency between the cost figures shown in the summary table 3–4 and the corresponding table in the body of the analysis, table 5–19. The cost estimates in table 3–4 are correct (those in table 5–19 are from the draft EIS but inadvertently were not updated).

Decision

DOE has decided to complete and operate the DARHT facility at LANL to provide enhanced high-resolution radiography (x-ray photography) capability to perform hydrodynamic tests and dynamic experiments in support of the Department's historical mission and the near-term stewardship of the nuclear weapons stockpile. DOE will mitigate potential environmental effects by implementing an enhanced approach to containing expended test materials. This will be done by conducting tests in modular steel containment vessels to be phased in over ten years. DOE will also construct and operate a separate Vessel Cleanout Facility in conjunction with the operation of the DARHT facility. This is the Phased Containment Option of the Enhanced Containment Alternative, identified as the preferred alternative in the DARHT Final EIS.

DOE will complete construction of the DARHT facility with the intent to operate both axes of the facility. As soon as possible, DOE will resume construction of the firing site facility, complete both of the two accelerator halls (dual axes), and will resume procurement, testing and installation of equipment required for operating the DARHT firing site facility with the first axis x-ray machine. DOE will equip the first axis with an accelerator capable of achieving a nominal 20 million electron volts (MeV) of electron- beam energy, and an output x-ray dose of up to 1,650 roentgens (R). The DARHT facility will be completed to the original plans, with minor modifications if necessary to accommodate the accelerator and x-ray equipment and the use of the portable modular containment vessels.

DOE intends to eventually operate DARHT in a dual axis mode, and will procure, test and install equipment for the second axis. Based on the results of installing, testing and proving the linear accelerator equipment in the first axis, DOE may incorporate modified or improved technology for the second axis or retrofit the equipment previously installed in the first axis. As long as no substantial change to the building footprint is required, and as long as the energy output of both the first and second accelerator falls within the range analyzed in the DARHT EIS (electron beam energies of up to 30 MeV and output x-ray dose of up to 2,000 R for each accelerator), no additional NEPA review will be required for modifications to equipment for the first or second axis.

DOE will operate the DARHT facility to provide high-speed, high-resolution flash radiographs which will be used to measure or diagnose the results of tests and experiments involving high explosives and other systems. Other types of portable low- energy x-ray, electronic, optical, and photographic diagnostic equipment may be used at the facility. DARHT may be operated with one or two x-ray beams from one or both axes, either simultaneously or with a timing variation.

DOE plans to conduct some dynamic experiments using plutonium. Dynamic experiments with plutonium will always be conducted in specially-designed double- walled containment vessels. DOE will maintain the capability to stage, maintain, and clean out plutonium containment vessels at LANL. The Vessel Cleanout Facility will not be used for this purpose.

DARHT will have the following uses and potential uses:

—To study the implosion of mock nuclear weapons primaries. This information would be used to assist the DOE with its stockpile stewardship and management mission in order to ensure the continued safety and reliability of nuclear weapons in the enduring stockpile, and to further a basic scientific understanding of the behavior of nuclear weapons.
—To conduct dynamic experiments with plutonium in order to obtain more information regarding the physical and chemical properties of plutonium. All such experiments will be conducted in specially-designed, double-walled steel containment vessels.
—To continue to assist other nations in evaluating the condition, safety and reliability of their existing nuclear weapons under current international agreements, and any future agreements.
—To assess the condition, safety and performance reliability of other nuclear weapons, such as those that might be designed by a non-friendly nation or a terrorist and obtained by the United States.
—To continue to assist the Department of Defense with evaluations of conventional weapons and other military equipment.
—To continue to study explosives-driven materials and high-velocity impact phenomena for non-weapons applications and other uses of interest to industry.
—To pursue other applications of the radiography or accelerator technology and other equipment developed for high-resolution radiography.

In 1991, President Bush stated that the United States would not design new nuclear weapons in the foreseeable future. However, in the event that this nation decides, as a matter of policy, that new nuclear weapons should be developed, or in the event that retrofit components need to be developed for existing nuclear weapons, DARHT could be used to assist in the development of weapons or weapons components. Any decision to develop new nuclear weapons would be made by the President subject to the review and approval of Congress. Neither DARHT nor any other facility operated by DOE will be used for this purpose unless such a Presidential determination is made.

The completed DARHT facility will be operated with a 2,500 foot (950 meter) radius exclusion zone as a safety feature to provide protection to personnel and structures while testing takes place. The completed DARHT facility will include the already-constructed earthen berm on the northern side of the facility to serve as a radiation protection measure. Explosives or special nuclear materials will not be stored, handled or processed inside the DARHT firing site building.

As soon as the first axis of the DARHT facility becomes operational, DOE will phase out operation of the PHERMEX facility over approximately four years and, at the end of that time, will decommission and decontaminate the PHERMEX facility unless an alternative use is identified for the structure or facility equipment. Activities needed to decommission and decontaminate the structure, or to convert it to another use, may be subject to further NEPA review or other environmental review.

DOE will use a modular containment vessel system to contain the materials released from tests and experiments—materials such as depleted uranium, beryllium, lead, copper, and other materials that would otherwise be released to the general environment. As discussed previously, DOE has always in the past, and will continue in the future, to conduct dynamic experiments with plutonium in special double-walled containment vessels. However, these vessels are not appropriate for tests not involving plutonium. They are limited to high explosive charges of 44 pounds (20 kilograms); a containment system for non-plutonium tests must accommodate much larger charges (see below). The existing vessels also impose substantial limitations on experiment configurations and diagnostic capabilities. Therefore, DOE will undertake a development program to design, test, and build containment vessels specifically for tests that do not use plutonium. This modular system will allow the containment vessel to be modified to meet size and configuration needs for a given test. Containment of tests not involving plutonium will be phased into DOE's long-term hydrodynamic testing program at LANL according to the following plan, with the first phase starting when the first axis of DARHT becomes operational. The first three phases will involve tests that use up to 110 pounds (50 kilograms) of high explosives.

—Phase 1—Demonstration (years 1 through 5). DOE will put into place at DARHT a prototype vessel system and portable cleanout unit as part of a process to reduce the material released to the open air over this 5-year period. (Based upon the analyses in the DARHT EIS, DOE expects that such a reduction would be at least 5% compared to the releases expected from the testing program if containment were not used.) During this period, DOE will design and build an additional vessel system, incorporating experience gained during this phase. Based on the final vessel design, DOE will design and start construction of the Vessel Cleanout Facility.
—Phase 2—Containment (years 6 through 10). Over the second 5-year period DOE will put into place a 5-vessel containment system which will be used to further reduce the material released over this 5-year period. (Based upon the analyses in the DARHT EIS, DOE expects that this reduction would be at least 40%.) DOE will start to operate the Vessel Cleanout Facility.
—Phase 3—Enhanced Containment (years 11 through 30). Based on DOE's experience gained from the first two phases, the modular containment vessels will be continually improved. DOE will use the vessel system to further reduce the material released over the next 20-year period. (Based upon the analyses in the DARHT EIS, DOE expects that this reduction would be at least 75%.)
—Phase 4—440-lb (200-kg) Containment Option. If justified by the development effort and operating experience after Phase 1, DOE may develop and use a vessel to contain material from tests and experiments larger than 110 pounds (50 kilograms). These could include tests of up to 440 pounds (200 kilograms) of high explosives, thus allowing DOE to contain a greater percentage of material. Phase 4 may be implemented at any time after Phase 1.

DOE will design, construct, and operate the Vessel Cleanout Facility to support use of the portable modular containment vessels. DOE analyzed two alternative locations for this facility in the DARHT EIS. DOE's intention is to locate and construct the Vessel Cleanout Facility at the southernmost location analyzed, because that location is closest to the DARHT facility and closest to existing utility lines. However, if during the detailed design stage DOE determines that it would be more beneficial (from the standpoint of operating conditions or environmental protection) to construct or operate the cleanout facility at the northernmost location, DOE may construct and operate the Vessel Cleanout Facility there without performing additional NEPA review. DOE will improve an existing firebreak (dirt) road to provide access to the Vessel Cleanout Facility at either of the two locations. Road improvements will be located to avoid adverse impact to cultural resource sites, if any, in the vicinity. If, after designs are completed, neither location analyzed in the DARHT EIS proves to be suitable, a decision to locate the Vessel Cleanout Facility somewhere else may be subject to further NEPA review.

The modular containment vessel intended for non-plutonium tests has not previously been used by DOE, and the operation of this system is not well-established. Although DOE expects a highly effective vessel design to be achievable, if technological problems were to be encountered in fabricating or using the vessel system, or if for some other reason the vessels cannot be deployed according to the phased schedule, DOE will conduct testing operations at DARHT in such a way as to continue to reduce, to the extent practicable, the amount of materials released to the environment. Such a reduction may be achieved by other methods, including (but not limited to) altering the number of experiments or tests, and picking up the expended materials.

Some non-plutonium tests or experiments of the type anticipated for DARHT cannot be conducted inside containment vessels due to diagnostic equipment limitations or the type of diagnostic information needed. Although DOE will eventually conduct most tests and experiments inside containment vessels, DOE may conduct any given test or experiment that does not involve plutonium in an open-air configuration, so long as the above percentages of material containment are met.

Other Decision Factors

In addition to environmental factors, DOE considered costs, timing, technology, national security, and infrastructure availability. DOE considered classified information, including the information and analyses in the classified supplement to the DARHT EIS, in making its decision. The environmental impacts identified in the classified supplement, specifically those relating to human health, were not in and of themselves classified, and were therefore also included in the environmental analyses in the unclassified portion of the DARHT EIS. However, the specific details of the operations that would produce those impacts are classified, and are presented only in the classified supplement. The factors discussed here include information from the classified as well as the unclassified portions of the DARHT EIS.

Cost

Because DOE must be fiscally prudent, DOE considered construction and operating costs. DOE estimates that the total capital cost for construction and equipment would vary considerably among alternatives. The capital cost for the Phased Containment Option would be the highest and that for the No Action Alternative would be the lowest. Over the predicted 30 year life of the facility, the Phased Containment Option has the lowest estimated total cost of all containment options when considering capital cost plus annual operating costs. The total capital construction and equipment cost for the Phased Containment Option would be about $187 million; on the average, operating costs would be about $9.8 million per year. For comparison, DOE estimates the approximate total capital costs and operating costs, respectively, for other alternatives at $181 million and $10.4 million for the Building Containment Option; $176 million and $10.4 million for the Vessel Containment Option; $167 million and $6.5 million for the Upgrade PHERMEX Alternative; $145 million and $6.5 million for either the DARHT Baseline Alternative or the Plutonium Exclusion Alternative; $97 million and $5.4 million for the Single Axis Alternative; and $49 million and $4.2 million for the No Action Alternative. As documented in the draft DARHT EIS, DOE originally calculated project capital costs based on installing 16 MeV linear accelerators. DOE estimates that the additional cost to install 20 MeV accelerators would be about $8 million per machine.

Timing

Because DOE needs to begin establishing baseline conditions of weapons in the enduring stockpile as soon as possible, DOE considered when it could achieve that level of enhanced capability provided by a single axis, and then considered if it could achieve the full enhanced multiple-view capability as well. PHERMEX and FXR are now in use, so under the No Action Alternative the existing (non-enhanced) capability is currently available and multiple-view capability would never be available. Under the DARHT Baseline Alternative and all other alternatives except the Upgrade PHERMEX Alternative, the first axis would be ready 38 months after construction resumes; for the DARHT Baseline Alternative and all other alternatives except as noted, the second axis would be available in 66 months (an additional 28 months). Under the Building Containment Option, dual axis capability would be ready in 77 months without interim single axis capability due to the additional time to construct the containment building. (Under this option, no tests would be conducted until the containment building was operational.) Under the Single Axis Alternative, a multiple-axis capability would never be available. Under the Upgrade PHERMEX Alternative, the existing operating capability would be lost for 51 months due to construction, and the second axis would be ready 71 months after construction began.

DOE considered whether it would be prudent to wait for development of the technology and design of an even more advanced multiple-view hydrodynamic testing capability instead of pursuing DARHT. Although DOE has conceptualized the next generation of advanced hydrodynamic testing capability, potential technologies for such a facility have not yet been selected, developed or proven. DOE would incur additional risk to its ability to ensure the safety and reliability of the nuclear weapons stockpile if, instead of obtaining a known enhanced capability in the near-term, it waited the several years necessary to identify and develop an advanced technology.

DOE also considered whether it would be prudent to wait until it has made the programmatic decisions expected to follow the completion of the Stockpile Stewardship and Management Programmatic EIS [60 FR 31291] or the LANL Sitewide EIS [60 FR 25697] now under preparation. The DARHT EIS notes that the actions needed to improve DOE's capability to conduct hydrodynamic tests and dynamic experiments are included within the stockpile stewardship mission defined by the President and Congress. The DOE proposal to provide enhanced high-resolution multiple-view radiographic capability responds to Presidential and Congressional direction. For the reasons noted below, DOE finds that this decision to acquire enhanced capability will not prejudice its future decisions regarding stockpile stewardship and management, or regarding providing an environmentally-sound operating envelope for LANL.

DOE will continue with its ongoing hydrodynamic testing program, and will need the enhanced capability provided by DARHT to implement that program, regardless of any other decisions to be made regarding stockpile stewardship and management. Thus, the courses of action analyzed in the DARHT EIS, and the action decided upon in this ROD, are justified independently of the stockpile stewardship and management program, and will not prejudice any ultimate decision on the program, nor will they be influenced by the expected programmatic decisions. The LANL Sitewide EIS will assist with decisions on how to operate LANL in an environmentally-sound manner; this ROD will not prejudice any decisions expected to result from the LANL Sitewide EIS. Accordingly, DOE finds that it would not be consistent with the nation's need to obtain enhanced radiographic hydrodynamic capability as quickly as possible if the Department delayed its decisions on DARHT until after completion of the other two EISs, nor would the Department benefit programmatically from such a delay.

Technology

DOE could achieve enhanced high-resolution radiographic capability under any of the alternatives analyzed in the DARHT EIS except the No Action Alternative. While still operating adequately at this time, the existing equipment at PHERMEX is approaching the end of its design life and DOE is concerned that it will become increasingly difficult and expensive to continue to maintain the aging accelerator over time. Under the Single Axis Alternative, DOE could not achieve the three-dimensional or sequential capability that could be achieved with dual axis capability, thus defeating a key component of the purpose and need for the project.

The three options under the Enhanced Containment Alternative would impede the image quality somewhat, but not to an unacceptable level. Containment also decreases testing efficiency in that it would take more time to prepare and execute a new test and would not allow for overhead diagnostics.

National Security

DOE needs to achieve high-resolution, high-speed multiple-axis radiographic hydrodynamic capability as soon as possible to ensure the greatest degree of confidence in the continued safety and reliability of the nuclear weapons stockpile. DOE needs to be able to use this type of capability to perform contained dynamic experiments with plutonium in support of its nuclear weapons stockpile stewardship and management mission. The existing hydrodynamic facilities at PHERMEX and FXR cannot provide the needed level of confidence to support our national security goals. Under the Single Axis Alternative, DOE could not obtain the three-dimensional or rapid-time-sequenced images needed to provide the maximum amount of diagnostic information to meet national security goals. Under the Plutonium Exclusion Alternative, DOE could not use the enhanced capability to diagnose the effects of dynamic experiments involving plutonium, which would not meet national security goals. Under the Upgrade PHERMEX Alternative, DOE would lose the ability to perform any hydrodynamic testing at LANL, and the capability to perform dynamic experiments with plutonium for 51 months, which would encumber national security goals.

Infrastructure

DOE needs to be able to use an enhanced radiographic capability for dynamic experiments involving plutonium. These experiments will always be conducted in special double-walled steel containment vessels. Special facilities are needed to fabricate plutonium shapes; store and handle plutonium; perform plutonium chemistry diagnostics; process material for experiments and for storage; and to ensure worker safety and security. The large, heavy, double-walled containment vessels that would be used for dynamic experiments with plutonium would be difficult to handle or to transport over long distances. While LANL already has the requisite plutonium storage and handling infrastructure at its Plutonium Facility and other facilities, no other DOE site currently has a plutonium storage and handling capability sufficient to support dynamic experiments with plutonium. DOE has determined that it would be unreasonably costly (up to about $10,000 per square foot) to construct new plutonium handling and storage facilities at another site when adequate operating technical facilities are already in place and in use at LANL. In addition, LANL already has an infrastructure in place to support the ongoing (non-plutonium) testing program at PHERMEX.

Balancing Decision Factors

In order to be able to continue to ensure the safety and reliability of the existing stockpile, DOE needs to obtain an enhanced capability to perform hydrodynamic tests and dynamic experiments, and to obtain that capability as soon as possible. DOE cannot afford to wait for development of future advanced technologies, but instead must make use of known technology.

Because DOE needs to be able to perform contained dynamic experiments with plutonium, DOE needs to have a plutonium handling capability to support the dynamic experiments; this support infrastructure is already in place at LANL and it would be too costly (several hundred million dollars) to replicate these facilities at another site solely to support an enhanced radiographic capability. Similarly, the safe transport of containment vessels that have been used for dynamic experiments with plutonium from another site to LANL would be prohibitively expensive. For these reasons, DOE needs to provide an enhanced radiographic capability at LANL.

DOE has concluded that the existing radiography equipment at PHERMEX (the No Action Alternative) does not meet the Department's need for enhanced high-resolution multiple-view radiographic capability. Enlarging the existing PHERMEX facility or constructing a second axis at PHERMEX would require DOE to forego its hydrodynamic capability at LANL for 51 months. DOE finds that a 51-month loss of its ability to conduct hydrodynamic tests and dynamic experiments at LANL is an unacceptable situation. Therefore DOE decided not to upgrade the existing PHERMEX facility to achieve enhanced single or dual axis radiographic capability (the Upgrade PHERMEX Alternative).

DOE needs to obtain high-resolution multiple-view radiographic capability to obtain the best information about nuclear weapons primaries. To equip only one axis of the dual axis DARHT facility would not allow DOE to obtain three-dimensional or time-sequenced information. Although there would be a cost reduction of about one-third if DOE did not equip the second axis, there would be very little difference in environmental impact, and national security goals would not be met. Therefore, DOE decided against installing accelerator equipment in only one axis of the DARHT facility (the Single Axis Alternative).

DOE needs to obtain high-resolution radiographic capability to conduct, among other things, contained dynamic experiments with plutonium. It would be inconsistent with national security goals to go to the expense of obtaining the high-resolution radiographic equipment planned for DARHT and to not use it for dynamic experiments with plutonium. In the event that DOE decided to operate DARHT without conducting plutonium experiments, DOE would have to maintain PHERMEX into the indefinite future to provide a capability to conduct plutonium experiments without taking advantage of DARHT's enhanced capability. This would neither be cost-effective nor meet national security goals. Accordingly, DOE decided against the option of completing DARHT but limiting the use of the facility to exclude the use of plutonium while maintaining PHERMEX indefinitely (the Plutonium Exclusion Alternative).

DOE initially preferred the DARHT Baseline Alternative. However, after examining the environmental impacts identified in the DARHT EIS, and the public and agency comments on the draft DARHT EIS, DOE recognized that achieving an enhanced level of containment provides an opportunity to increase the quality of DOE's environmental stewardship by decreasing contamination from expended test materials (the Enhanced Containment Alternative). Therefore DOE has decided against implementing the DARHT Baseline Alternative by itself, even though providing an enhanced level of containment is more expensive. From a programmatic standpoint, the immediate use of vessel or building containment could have serious design or operating limitations. Phasing a program of vessel containment over ten years would allow DOE to take advantage of the environmental mitigation effect of enhanced vessel containment while still allowing the DARHT facility to be completed relatively quickly to meet national security needs as soon as possible.

Under the Building Containment Option, the concrete containment structure would have to be very large in comparison to the firing site to contain the overpressure from an explosive test; DOE would forego the capability for experiments or tests using large amounts of high explosives or other specific types of large-scale tests because of the structural limitations of the building. Also, this option would place serious constraints on DOE's ability to conduct dynamic experiments with plutonium because of the difficulty in moving the large, double-walled steel containment vessels needed for plutonium experiments in and out of the containment building.

The DARHT EIS analysis of the Vessel Containment Option assumed that the DARHT facility would operate from the outset with most tests and experiments conducted inside modular single-walled steel containment vessels. If this limitation were imposed, the number of tests that could be conducted early in the operating life of the facility would be significantly reduced. Although some conceptual work has been done, DOE has not yet designed the modular vessels. DOE would have to perfect a prototype vessel before fabricating all the vessels needed. The use of modular vessels depends on construction and operation of the Vessel Cleanout Facility; the design for this building could not be finalized until after the prototype vessels were perfected in order to determine the specific details of cleanout equipment and techniques. DOE estimates that it would take approximately 10 years beyond the available date of the DARHT facility to complete these activities and be able to conduct a full schedule of contained tests. DOE finds that a delay of five or ten years to implement the modular vessel containment system before operating the DARHT facility would be unacceptable and would not meet the Department's need to obtain the use of DARHT's capability as soon as possible.

By phasing the implementation of the vessel prototyping program, within about 10 years DOE could achieve the same environmental protection results as could be obtained under the Vessel Containment Option without delaying or adversely affecting its ability to operate DARHT. Therefore, DOE developed the Phased Containment Option. Under this option, for the first 10 years environmental mitigation would be greater than would occur under the DARHT Baseline Alternative but less than would occur under the Vessel Containment Option; after that point, environmental mitigation would be the same for the Phased Containment Option and the Vessel Containment Option. Accordingly, DOE has decided to implement the Phased Containment Option rather than delay operation of DARHT, as would have been the case under the Vessel Containment Option.

For some tests, DOE cannot meet programmatic objectives if vessel containment is used. Therefore, on a case-by case basis, DOE may opt to conduct certain types of non-plutonium tests as uncontained, such as those using a very large explosive charge (larger than the containment vessel rating); those requiring complex diagnostics (such as certain optics or laser tests) that cannot be achieved using a containment vessel; those requiring measurement of material movement beyond the confines of the vessel; or those using a very small explosives charge or small amounts of hazardous materials in which use of the vessel would not be practical, cost-effective, or environmentally significant. After the phased containment program is fully implemented, DOE expects to reduce by at least 75% the emissions from test assemblies made from beryllium, depleted uranium, or Resource Conservation and Recovery Act characteristic metals. For any experiment that is contained, DOE expects that at least 99% by mass of these materials would be retained inside the vessel.

Mitigation Measures

Through the environmental impact analysis process, and in conjunction with consultations with affected American Indian tribes and with the U.S. Fish and Wildlife Service, DOE developed several mitigation measures to protect soils, water, wildlife, biotic, and cultural resources. Some mitigation measures would apply during construction activities, and some for the duration of the project. DOE has agreed to an ongoing consultation process with affected American Indian tribes to ensure protection of cultural resources and sites of cultural, historic or religious importance to the tribes. DOE will take special precautions to protect the Mexican spotted owl, a federally-listed threatened species, and in consultation with the U.S. Fish and Wildlife Service, will prepare a laboratory-wide habitat management plan for all threatened and endangered species occurring throughout LANL in order to determine long-range mitigation actions to protect the habitats for these species. The habitat management plan will be completed within 3 years from the date of this decision, and will be updated as necessary. DOE will implement the mitigation measures discussed in section 5.11 of volume 1 of the DARHT EIS. In accordance with 10 CFR 1021.331, DOE is preparing a Mitigation Action Plan that will identify specific actions needed to implement these mitigation measures, and provide schedules for completion. These mitigation measures represent all practicable means to avoid or minimize harm from the alternative selected.

Conclusion

In accordance with the provisions of NEPA, its implementing regulations, and DOE's NEPA regulations, and consistent with the U.S. District Court Order of May 5, 1995, I have considered the information contained within the final DARHT EIS, including the classified supplement to that EIS, and the public comments received in response to the draft DARHT EIS. Being fully apprised of the environmental consequences of the proposal and its several alternatives, as well as the cost considerations and other decision factors described above, I have concluded the following:

—Completing and operating the DARHT facility at LANL would meet the need of the Department and this nation to obtain as soon as possible an enhanced capability to perform high-resolution, multiple-image radiography to diagnose hydrodynamic tests and dynamic experiments.
—Conducting most tests and experiments inside modular steel containment vessels will reduce the potential for contamination from dispersal of materials from the explosive-driven tests.
—Phasing in the implementation of the modular vessel system over a ten-year period will allow DOE to gain the benefit of operating the DARHT facility as quickly as possible.
—The incrementally higher impacts during the phase-in period do not pose an unacceptable risk to public health and welfare, or to the environment.

I have therefore determined that DOE will implement the Phased Containment Option of the Enhanced Containment Alternative, identified as the preferred alternative in the DARHT EIS. As part of this action, DOE will take additional mitigation measures, specified herein, including those to protect the habitat of threatened or endangered species, and to protect cultural resource sites and other locations of interest to affected American Indian tribes. These actions will allow DOE to meet its responsibility to ensure the safety and reliability of the nuclear weapons stockpile, while meeting its additional responsibility for environmental stewardship of the lands and resources entrusted to its care.

Issued at Washington, D.C. October 10, 1995.

Victor H. Reis,

Assistant Secretary for Defense Programs.

[FR Doc. 95–25596 Filed 10–13–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Restricted Eligibility Support of Advanced Coal Research at U.S. Colleges and Universities

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

ACTION: Notice of restricted eligibility.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive program solicitation and award financial assistance (grants) in support of advanced coal research to U. S. Colleges and Universities. These grants will be awarded to a limited number of proposals selected on the basis of scientific merit and subject to the availability of funds.

FOR FURTHER INFORMATION CONTACT: Ms. Mary S. Price, U. S. Department of Energy, Pittsburgh Energy Technology Center, P. O. Box 10940 (MS 921–143), Pittsburgh, PA 15236–0940, AC (412) 892–6179. The solicitation will be made available on DOE's PETC World Wide Web Server Internet System (http://www.petc.doe.gov/business). If recipients are unable to access the Internet System, the solicitation will be available on a 3½'' diskette, double-sided/high density, upon receipt of written request via facsimile (FAX) at (412) 892–6216.

SUPPLEMENTARY INFORMATION: Through Program Solicitation DE–PS22–96PC96200, the DOE is interested in applications from U. S. Colleges and Universities (and university-affiliated research centers submitting applications through their respective university) for research and advanced concepts related to coal science that have the potential to improve our fundamental scientific and technical understanding of the chemical and physical processes in coal conversion and utilization. The Department of Energy, pursuant to 10 CFR 600.7(b)(1), intends to award on a restricted eligibility basis.

Eligibility

Applications under this solicitation may be submitted in response to the requirements of the (1) University Coal Research (UCR) Core Program, (2) Joint University/Industry Coal Program, or (3) Historically Black Colleges and Universities (HBCU)/Non-Historically Black Colleges and Universities Partnership Program.

Applications must address coal research in one of the seven technical topics: (1) Coal Science; (2) Coal Surface Science; (3) Reaction Chemistry; (4) Advanced Process Concepts; (5) Engineering Fundamentals and Thermodynamics; (6) Environmental Science; or (7) Minimization of Environmental Impact.

Details on the UCR Core Program, the Joint University/Industry Coal Research Program, and the Historically Black Colleges and Universities/Non-Historically Black Colleges and Universities Partnership Program eligibility requirements, budget limitations, and technical topic descriptions are contained in the Program Solicitation.

The Government reserves the right to merge the program categories based upon the legal status of the program set-asides.

Awards

DOE anticipates awarding financial assistance (grants) for each project selected. Approximately $3.8 million will be available for the Program Solicitation: $2.625 million is for the UCR Core Program and should provide funding for about 15 financial assistance grants (max. DOE funding of $200,000 per award); $0.8 million is set-aside for the Joint University/Industry Coal Research Program, which should support 2 grants (max. DOE funding of $400,000 per award); and $0.375 million is set-aside for the Historically Black Colleges and Universities/Non-Historically Black Colleges and Universities Partnership Program which should support one award.

Solicitation Release Date

The Program Solicitation is expected to be ready for release by October 11, 1995. Applications must be prepared and submitted in accordance with the instructions and forms in the Program Solicitation and must be received by the Department of Energy by November 30, 1995.

William R. Mundorf,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 95–25593 Filed 10–13–95; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Notice of Availability of Record of Decision for Direct Service Industrial Customer Power Sales Contract

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: BPA has negotiated new power sales contracts with its Direct Service Industry (DSI) customers and has decided to execute 5-year block power sales with the DSIs. The contracts will maintain a reasonable level of load which would otherwise be lost to BPA and will produce a 5-year revenue stream for BPA that is sufficient, when combined with other revenues, to meet BPA's financial and statutory obligations. These power sales contracts are also designed to meet the needs of the DSIs and are comparable to competing offers being made by other utilities, marketers, and brokers to the DSIs. In making this decision, BPA is continuing its Market-Driven approach for participation in the increasingly competitive electric power market.

This notice announces the availability of the ROD for executing 5-year power sales contracts with these DSI customers. This decision is consistent with BPA's Business Plan, Business Plan Environmental Impact Statement (BP EIS)(DOE/EIS–0183, June 1995), and the Business Plan ROD (August 15, 1995).

ADDRESSES: Copies of this ROD, the BP EIS, and the Business Plan ROD may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: John M. Taves—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–4995, fax number (503) 230–4564.

Public Availability: This ROD will be distributed to all interested and affected persons and agencies.

Issued in Portland, Oregon, on September 28, 1995.

Sue F. Hickey,

Acting Administrator.

[FR Doc. 95–25595 Filed 10–13–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG96–2–000, et al.]

Houston Industries Energy Peru, Inc., et al. Electric Rate and Corporate Regulation Filings

October 6, 1995.

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

1. Houston Industries Energy Peru, Inc.

[Docket No. EG96–2–000]

On October 4, 1995, Houston Industries Energy—Peru, Inc. (''HIE Peru''), 611 Walker, 11th Floor, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

HIE Peru intends to participate in an international public bid to acquire sixty percent (60%) of the capital stock of Empresa de Generación Eléctrica de Lima S.A. (''Edegel''), a Peruvian company that is owned by the Republic of Peru. The remaining forty percent (40%) of the capital stock of Edegel will be retained by the Republic of Peru. The Peruvian government has granted Edegel a concession to hold and operate five hydroelectric generating facilities, the dam, reservoir and tunnel system that supplies water to these plants, a thermal generating plant, interconnecting transmission lines and a repair and maintenance workshop with a total installed generation capacity of approximately 693 megawatts. The successful bidding group will also be required to add an additional 100 megawatts of generating capacity within twelve months of the transfer of shares to the successful bidding group.

Comment date: October 31, 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. Boston Edison Company

[Docket Nos. ER93–266–003, ER93–940–001 and ER94–1644–001]

Take notice that on September 26, 1995, Boston Edison Company tendered for filing its compliance filing in the above-referenced dockets.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Company (Minnesota)

[Docket No. ER95–1575–000]

Take notice that on September 26, 1995, Northern States Power Company (NSP) tendered for filing an amendment in the above-referenced docket.

NSP requests the Commission to waive its notice requirements and accept the agreements for filing effective August 19, 1995.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

4. Kentucky Utilities Company

[Docket No. ER95–1808–000]

Take notice that on September 21, 1995, Kentucky Utilities Company tendered for filing executed copies of Service Agreements for Power Services with LG&E Power Marketing, Inc., Stand Energy Corporation, and Wabash Valley Power Association, Inc.

Comment date: October 23, 1995 in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Power Service Corporation

[Docket No. ER95–1813–000]

Take notice that on September 21, 1995, the Allegheny Power Service

Corporation tendered for filing on behalf of Monongahela Power Company (Mon Power) Supplement No. 2 to Mon Power's FERC Electric Tariff First Revised Volume No. 1, as accepted for filing in Docket No. ER94–1695–000 with Supplement No. 1 in Docket No. ER95–18–000.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER95–1814–000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on September 21, 1995, tendered for filing an agreement between Niagara Mohawk and Hartford Power Marketing (Hartford) dated September 15, 1995, providing for certain transmission services to Hartford.

Copies of this filing were served upon Hartford and the New York State Public Service Commission.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER95–1816–000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on September 21, 1995, tendered for filing an agreement between Niagara Mohawk and Heartland Power Marketing (Heartland) dated September 13, 1995, providing for certain transmission services to Heartland.

Copies of this filing were served upon Heartland and the New York State Public Service Commission.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corporation

[Docket No. ER95–1817–000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on September 21, 1995, tendered for filing an agreement between Niagara Mohawk and Gateway Power Marketing (Gateway) dated September 19, 1995, providing for certain transmission services to Gateway.

Copies of this filing were served upon Gateway and the New York State Public Service Commission.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER95–1831–000]

Take notice that on September 25, 1995, Louisville Gas and Electric Company (LG&E) tendered for filing an amendment to the agreement between LG&E and East Kentucky Power Cooperative to update the pricing under Service Schedule E, Section 3.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1818–000]

Take notice that on September 21, 1995, Consolidated Edison Company of New York, Inc. (''Con Edison'') tendered for filing an agreement with Hydro-Quebec (''HQ'') to provide for the sale, purchase, and exchange of surplus energy and capacity. The ceiling rate for energy sold by Con Edison or HQ is 100 percent of the incremental energy cost plus up to 10 percent of the SIC. The rate for capacity sold by Con Edison or HQ is $600 per megawatt/week.

Con Edison states that a copy of this filing has been served by mail upon HQ.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Company

[Docket No. ER95–1821–000]

Take notice that on September 22, 1995, Pacific Gas and Electric Company (PG&E) tendered for filing the Coastal Electric Services Company (CESC) and PG&E Power Enabling Agreement and the Citizens Lehman Power Sales (Citizens) and PG&E Power Enabling Agreement. These Enabling Agreements document terms and conditions for the purchase, sale or exchange of economy energy and surplus capacity which the Parties agree to make available to one another at defined control area border interconnection points.

Copies of this filing have been served upon CESC, Citizens and the California Public Utilities Commission.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

12. The Washington Water Power Company

[Docket No. ER95–1822–000]

Take notice that on September 22, 1995, The Washington Water Power Company (WWP), tendered for filing a signed service agreement under FERC Electric Tariff Volume No. 4 with Western Gas Resources Power Marketing, Inc. along with a Certificate of Concurrence with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of October 1, 1995. A signed service agreement with El Paso Electric Company previously approved as an unsigned service agreement is also submitted with this filing.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER95–1823–000]

Take notice that on September 22, 1995, PECO Energy Company (PECO) filed a Service Agreement dated September 6, 1995, with Catex Vitol Electric, L.L.C. (CATEX) under PECO's FERC Electric Original Volume No. 1 (Tariff). The Service Agreement adds CATEX as a customer under the tariff.

PECO requests an effective date of September 6, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to CATEX and to the Pennsylvania Public Utility Commission.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket No. ER95–1825–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on September 25, 1995, tendered for filing an amendment and a supplement to its Agreement with Consolidated Edison Company of New York, Inc. (Con Edison), designated Rate Schedule FERC No. 87.

The amendment changes the effective date of rate updates under the rate schedule from April 1 to September 1 so that the parties have more time to prepare and file the updates. The supplement is made pursuant to the rate update provisions of the rate schedule.

NYSEG requests an effective date of September 1, 1995, and therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Consolidated Edison Company of New York and on the Public Service Commission of the State of New York.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

15. J.D. Loock & Associates

[Docket No. ER95–1826–000]

Take notice that J.D. Loock & Associates (JDL) on September 25, 1995, tendered for filing a petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1 to be effective on January 1, 1996.

JDL intends to engage in electric power and energy transactions as a marketer and broker. In transactions where JDL purchasers power, including capacity and related services from electric utilities, qualifying facilities, and independent power producers, and resells such power to other purchasers, JDL will be functioning as a marketer. In JDL's marketing transactions, JDL proposes to charge rates mutually agreed upon by the parties. Sales will be at arms length, and no sales will be made to affiliated entities. In transactions where JDL does not take title for the electric energy and/or power, JDL will be limited to the role of a broker and charge a fee for its services. JDL is not in the business of producing or transmitting electric energy. JDL does not currently have or contemplate acquiring title to any electric power transmission facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that no sales may be made to affiliates.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER95–1827–000]

Take notice that on September 25, 1995, PECO Energy Company (PECO) tendered for filing a Service Agreement dated September 20, 1995, with Phibro, Inc. (PHIBRO) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PHIBRO as a customer under the Tariff.

PECO requests an effective date of September 20, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to PHIBRO and to the Pennsylvania Public Utility Commission.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

17. Northeast Utilities Service Company

[Docket No. ER95–1828–000]

Take notice that Northeast Utilities Service Company (NUSCO) on September 25, 1995, tendered for filing, a Service Agreement with Phibro Inc. (Phibro) under the NU System Companies' System Power Sales/ Exchange Tariff No. 6.

Phibro also filed a Certificate of Concurrence as it relates to exchange transactions under the Tariff.

NUSCO states that a copy of this filing has been mailed to Phibro.

NUSCO requests that the Service Agreement become effective in accordance with the Commission's Regulations.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Power and Light Company

[Docket No. ER95–1829–000]

Take notice that on September 25, 1995, Wisconsin Power and Light Company (WP&L) tendered for filing an Agreement dated August 30, 1995, establishing LG&E Power Marketing Inc. as a customer under the terms of WP&L's Transmission Tariff T–2.

WP&L requests an effective of August 30, 1995 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

19. Multitrade of Pittsylvania County, L.P.

[Docket No. ER95–1830–000]

Take notice that Multitrade of Pittsylvania County, L.P. (MPC) on September 25, 1995, tendered for filing an Amendment No. 2 to the Power Purchase and Operating Agreement between MPC and Virginia Electric and Power Company (Virginia Power). Amendment No. 2 revises the definition of ramp up and ramp down parameters for the integration of MPC's facility with the Virginia Power System. MPC requests that the Commission to waive its notice requirements to permit Amendment No. 2 to become effective as of July 24, 1995. Copies of the filing have been served upon Virginia Power.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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. 95–25528 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–P

Federal Energy Regulatory Commission

[Docket No. EF95–5012–000, et al.]

Western Area Power Administration, et al., Electric Rate and Corporate Regulation Filings

October 5, 1995.

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

1. Western Area Power Administration

[Docket No. EF95–5012–000]

Take notice that on September 19, 1995, the Deputy Secretary of the Department of Energy, by Rate Order No. WAPA–72, did confirm and approve on an interim basis, to be effective on October 1, 1995, the Western Area Power Administration's (Western) Rate Schedule CV–F8 for commercial firm-power service from the Central Valley Project (CVP).

The rates in Rate Schedule CV–F8 will be in effect pending the Federal Energy Regulatory Commission's (FERC) approval of these or of substitute rates on a final basis, ending April 30, 1998.

The power repayment study for the CVP rate adjustment indicates that the existing rates yield revenue in excess of that required to satisfy the cost-recovery criteria through the study period. The provisional rates will yield adequate revenue to satisfy these criteria.

The Administrator of Western certifies that the rates are consistent with applicable law and that they are the lowest possible rates consistent with sound business principles. The Deputy Secretary of the Department of Energy submits the rate schedule for confirmation and approval on a final basis for a 2½-year period beginning October 1, 1995, and ending April 30, 1998, pursuant to authority vested in FERC by Delegation Order No. 0204–108, as amended.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

2. International Power Advisors, Inc.

[Docket No. EG96–1–000]

On October 2, 1995, International Power Advisors, Inc. (International Power), c/o Energy Initiatives, Inc., One Upper Pond Road, Parsippany, New Jersey 07054, filed with the Federal

Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

International Power, a Delaware corporation, was formed to operate and maintain, together with EI Services Colombia, Ltda. (EI Services Colombia), a gas fired electric generating facility with a capacity of up to 980MW to be located in Soledad near Barranquilla, Colombia (the Facility). International Power intends to operate the Facility together with EI Services Colombia pursuant to an operation and maintenance agreement with the Facility's owner, Termobarranquilla S.A., Empresa de Servicios Publicos , a Colombia corporation. All of the Facility's electricity will be sold at wholesale to Corporacion Electrica de la Costa Atlantica, a Colombian entity.

Comment date: October 27, 1995 in accordance with Standard Paragraph E at the end of this notice.

3. New York Mercantile Exchange

[Docket No. EL95–81–000]

Take notice that on September 28, 1995, the New York Mercantile Exchange (NYMEX), a New York corporation whose principal place of business and corporate address is Four World Trade Center, New York, New York 10048, filed in the above-referenced docket, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, a Petition for Declaratory Order to the effect that certain electricity futures contracts (Contracts) that NYMEX intends to list for trading will not constitute ''securities'' within the meaning of Section 3(16) of the Federal Power Act (FPA), and that the trading of these contracts by public utilities will not, in and of itself, implicate Commission jurisdiction under Sections 203 and/or 204 of the FPA.

Comment date: Thirty days from publication in the Federal Register in accordance with Standard Paragraph E at the end of this notice.

4. Amoco Power Marketing, Inc.

[Docket No. ER95–1359–000]

Take notice that on September 14, 1995, Amoco Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

5. Georgia Power Company

[Docket No. ER95–1513–000]

Take notice that on September 18, 1995, Georgia Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

6. Blackstone Valley Electric Company

[Docket No. ER95–1520–000]

Take notice that on September 21, 1995 Blackstone Valley Electric Company (Blackstone) filed an amended version of the contract with New England Power Company filed in this docket conforming to the recommendations of the rate filing staff. The Company submits the amended contract as a replacement for that originally filed.

The amended contract incorporates a formula rate for the determination of a Contribution In Aid of Construction and Monthly Expenses which differs from that incorporated in the contract as originally submitted. The formula rate in the amended contract was developed in cooperation with the rate filing staff.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

7. New York State Electric & Gas Corporation

[Docket No. ER95–1589–000]

Take notice that on September 25, 1995, tendered for filing an amendment in the above-referenced docket.

Comment date: October 20, 1995 in accordance with Standard Paragraph E at the end of this notice.

8. Duquesne Light Company

[Docket No. ER95–1783–000]

Take notice that on September 15, 1995, Duquesne Light Company (DLC) filed a Service Agreement dated September 7, 1995 with Engelhard Power Marketing, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Engelhard Power Marketing, Inc. a customer under the Tariff. DLC requests an effective date of September 7, 1995 for the Service Agreement.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

9. Northern Indiana Public Service Company

[Docket No. ER95–1786–000]

Take notice that on September 18, 1995, the Northern Indiana Public Service Company (Northern) tendered for filing the Revised Addenda to Northern's Interchange Agreements with Indiana Michigan Power Company; PSI Energy, Inc.; Customers Power Company and the Detroit Edison Company; Commonwealth Edison Company and Commonwealth Edison Company of Indiana; Indiana Municipal Power Agency; Wabash Valley Power Association; Central Illinois Public Service Company; LG&E Power Marketing, Inc.; Wisconsin Electric Power Company; and Rainbow Energy Marketing Company. All of the Interchange Agreements are currently on file with the Commission and have been allowed to become effective.

The Addenda details Northern's method for recovery of emission allowance costs in coordination power sales. Each Revised Addenda provides that repayments in kind of Emission Allowances are to be made no later than two (2) weeks prior to the EPA's final reporting date of Emission Allowance usage, rather than no later than one (1) week. Northern requests that the Revised Addenda be allowed to become effective as of September 19, 1995.

A copy of the filing was served by Northern upon each of the affected companies listed above and the Indiana Utility Regulatory Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

10. Cleveland Electric Illuminating Company

[Docket No. ER95–1795–000]

Take notice that on September 19, 1995, Cleveland Electric Illuminating Company tendered for filing a Power Sales Agreement dated September 15, 1995 between CEI and Hartford Power Sales, L.L.C. CEI states that the Power Sales Agreement is a long-term agreement pursuant to which CEI will sell power to Hartford at negotiated rates which are substantially lower than the ceiling rates previously accepted by the Commission for sales by CEI to other customers. CEI has requested that the Commission waive its regulations to the extent necessary to permit the Power Sales Agreement to be made effective as of September 23, 1995.@

On September 20, 1995, CEI tendered for filing a table of estimated sales and revenues under the Power Sales Agreement which was inadvertently omitted from its September 19, 1995 filing in this docket.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of New Mexico

[Docket No. ER95–1800–000]

Take notice that on September 20, 1995, Public Service Company of New Mexico (PNM) tendered for filing

Service Schedule I (Service Schedule I) between PNM and El Paso Electric Company (EPE) and the Transfer of Operating Agent for SWNMT letter agreement (Transfer Letter Agreement) between PNM, EPE and Texas-New Mexico Power Company (TNP).

Service Schedule I sets forth the terms and conditions under which PNM will provide EPE with firm point to point and interruptible transmission service. The Transfer Letter Agreement effectuates EPE taking over the duties and liabilities of the operating agent for all 345 Kv Southwest New Mexico Transmission (SWNMT) project facilities including the Hidalgo and Luna substations.

PNM requests waiver of the Commission's notice requirements in order to allow Service Schedule I to be implemented as of September 1, 1995. Further, PNM requests that the Transfer Letter Agreement become effective on September 12, 1995, the date upon which the transfer was fully completed.

Copies of this notice have been mailed to EPE, TNP, Plains Electric Generation and Transmission Cooperative, Inc., Tucson Electric Power Company and the New Mexico Public Utility Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

12. MidAmerican Energy Company

[Docket No. ER95–1801–000]

Take notice that on September 20, 1995, MidAmerican Energy Company (MidAmerican) filed with the Commission two Umbrella Service Agreements with AES Power, Inc. (AES) dated September 8, 1995 and Rainbow Energy Marketing Corporation (Rainbow) dated August 25, 1995, entered into pursuant to Section 5.2 of MidAmerican's Firm Point-to-Point Transmission Service Tariff which was accepted for filing by the Commission in Docket No. ER95–188–000.

MidAmerican requests an effective date of September 8, 1995 for the Agreement with AES and August 25, 1995 for the Agreement with Rainbow, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on AES, Rainbow, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

13. MidAmerican Energy Company

[Docket No. ER95–1802–000]

Take notice that on September 20, 1995, MidAmerican Energy Company (MidAmerican) filed with the Commission two Service Agreements with AES Power, Inc. (AES) dated September 8, 1995 and Rainbow Energy Marketing Corporation (Rainbow) dated August 25, 1995, entered into pursuant to Section 4.0 of MidAmerican's Non-Firm Point-to-Point Transmission Service Tariff which was accepted for filing by the Commission in Docket No. ER95–188–000.

MidAmerican requests an effective date of September 8, 1995 for the Agreement with AES and August 25, 1995 for the Agreement with Rainbow, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on AES, Rainbow, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Electric and Gas Company

[Docket No. ER95–1803–000]

Take notice that on September 20, 1995, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial rate schedule to provide fully interruptible transmission service to the InterCoast Power Marketing Company for delivery of non-firm wholesale electrical power and associated energy output utilizing the PSE&G bulk power transmission system.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power & Light Company

[Docket No. ER95–1804–000]

Take notice that on September 21, 1995, Florida Power & Light Company (FPL) tendered for filing an Amendment No. Three to the Stanton Transmission Service Agreement between Florida Power & Light Company and Florida Municipal Power Agency.

FPL requests that the proposed service agreements be permitted to become effective on September 23, 1995, or as soon thereafter as practicable.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

16. Arizona Public Service Company

[Docket No. ER95–1805–000]

Take notice that on September 21, 1995, Arizona Public Service Company (APS) tendered for filing a revised Exhibit applicable under the City of Williams Wholesale Power Supply Agreement, APS-FERC Rate Schedule No. 192.

Current rate levels are unaffected, and no other change in service to this or any other customer results from the revision proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

A copy of this filing has been served on the City of Williams and the Arizona Corporation Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER95–1806–000]

Take notice that on September 20, 1995, Northern States Power Company-Minnesota (NSP-M) and Northern States Power Company-Wisconsin (NSP-W) jointly tender and request the Commission to accept a Transmission Service Agreement which provides for 50 MW of Reserved Transmission Service to Wisconsin Power and Light Company beginning August 25, 1995, through September 1, 1995. The source party is Otter Tail Power Company and the recipient party is Wisconsin Power and Light Company.

NSP requests that the Commission accept for filing the Transmission Service Agreement effective as of August 25, 1995. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreement may be accepted for filing effective on the date requested.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER95–1807–000]

Take notice that on September 21, 1995, Commonwealth Electric Company (Commonwealth) on behalf of itself and Cambridge Electric Light Company (Cambridge), collectively referred to as the ''Companies'', tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Customers:

Coastal Electric Services Company
Massachusetts Municipal Wholesale Electric Company

Middleborough Gas and Electric Department
Princeton Municipal Light Department
Rainbow Energy Marketing Corporation

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Power Sales and Exchanges Tariffs designated as Commonwealth's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 3) and Cambridge's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 5). These Tariffs, approved by FERC on April 13, 1995, and which have an effective date of March 20, 1995, will allow the Companies and the Customers to enter into separately scheduled transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective dates as specified on each Service Agreement.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

19. Kentucky Utilities Company

[Docket No. ER95–1808–000]

Take notice that on September 21, 1995, Kentucky Utilities Company tendered for filing executed copies of Service Agreements for Power Services with LG&E Power Marketing, Inc., Stand Energy Corporation, and Wabash Valley Power Association, Inc.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

20. Utility-2000 Energy Corp. Utility-Traded Corp.

[Docket No. ER95–1809–000]

Take notice that Utility-2000 Energy Corp. and Utility-Trade Corp. (Utility-Trade), on September 21, 1995, submitted for filing each of its amended electric service tariffs, FERC Rate Schedule No. 1. The amendment to each Rate Schedule would authorize sales to any affiliate having a FERC rate schedule permitting sales for resale by such affiliate at rates established by agreement between the purchaser and the affiliate. Utility-2000 and Utility-Trade request an effective date of October 1, 1995, for each of their respective rate schedules.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

21. Wisconsin Power and Light Company

[Docket No. ER95–1810–000]

Take notice that on September 21, 1995, Wisconsin Power and Light Company (WPL) tendered for filing a revised appendix to the existing Interconnection agreement between Madison Gas and Electric Company (MG&E) and WPL.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to MG&E Company and the Wisconsin Public Service Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

22. Public Service Electric and Gas Company

[Docket No. ER95–1812–000]

Take notice that on September 21, 1995, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an agreement for the sale of energy and capacity of PECO Energy Company (PECO).

PSE&G requests the Commission to waive its notice requirements to permit the Energy Sales Agreement to become effective as of September 22, 1995. Copies of the filing have been served upon PECO and the Pennsylvania Public Utilities Commission.

Comment date: October 19, 1995 in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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. 95–25527 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–706–000, et al.]

El Paso Natural Gas Company, et al.; Natural Gas Certificate Filings

October 6, 1995.

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

1. El Paso Natural Gas Company

[Docket No. CP95–706–000]

Take notice that on August 23, 1995, as supplemented on September 27, 1995, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP95–706–000, a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify, then operate the existing Llano Grama Ridge Receipt Point, located in Lea County, New Mexico, as a bidirectional receipt/delivery point, under the authorization issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act. It is stated that this conversion will permit El Paso to deliver gas to, as well as continue to receive gas from, Llano, Inc. (Llano), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that Llano now desires to receive gas for either redelivery to end-users or, in certain instances, redelivery into facilities of another interstate pipeline company. Accordingly, El Paso requests authorization to modify and then operate the Llano Grama Ridge Receipt Point as a bidirectional receipt/delivery point to be designated as the Llano Grama Ridge Meter Station.

El Paso states that the estimate cost of the proposed facilities is $28,900 and that Llano has agreed to reimburse El Paso for the involved costs. It is stated that the proposed quantity to be transported on a firm basis to the Llano Grama Ridge Meter Station is estimated to be 18,250,000 Mcf annually, or an average of 50,000 Mcf daily.

El Paso states: (i) operation of the Llano Grama Ridge Meter Station in bidirectional service is not prohibited by El Paso's existing tariff; and (ii) gas volumes will be delivered pursuant to transportation arrangements between El Paso and any shipper desiring El Paso to make deliveries on a shipper's behalf at this meter station. El Paso asserts that it has sufficient capacity to deliver the requested gas volumes without detriment or disadvantage to El Paso's other customers.

Comment date: November 20, 1995 in accordance with Standard Paragraph G at the end of this notice.

2. CNG Transmission Corporation

[Docket Nos. CP93–200–004, CP95–32–001 and CP95–245–001]

Take notice that on October 3, 1995, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26302–2450 filed amendments to applications for abandonment authority to sell certain gathering facilities in West Virginia to Cabot Oil & Gas Corporation (Cabot) in Docket No. CP93–200–000 and CP95–32–000. CNG states that Big Sandy Gas Company (Big Sandy), an affiliate of Cabot which would have been receiving and operating the gathering facilities, also filed requests for a declaratory order for non-jurisdictional status of the gathering facilities in Docket Nos. CP93–198–000 and CP95–46, respectively.

CNG states that it also filed for abandonment authority to sell certain gathering facilities in central West Virginia to Parker & Parsley Gas Processing Company (Parker & Parsley) in docket No. CP95–254–000. It is stated that Parker & Parsley also filed a request for a declaratory order for non-jurisdictional status of the gathering facilities in Docket No. CP95–244–000.

It is stated that Cabot and CNG have attempted unsuccessfully to resolve pricing issues concerning the Cabot sales, with CNG terminating letters of intent between the parties, effective October 1, 1995. CNG states that, due to a change by Parker & Parsley in its Appalachian operations, CNG has also elected to terminate the purchase and sale agreement between CNG and Parker & Parsley. However, CNG states that it has entered into a letter of intent with Eastern States Oil & Gas, Inc. (Eastern) to sell Eastern the same gathering facilities being sold to Cabot and Parker & Parsley. It is stated that a definitive Purchase and Sale Agreement will be signed in the near future.

Additionally, CNG states that Exhibit Y in the above-referenced dockets have been supplemented to reflect the accounting entries for the new purchaser and depreciation as of December 31, 1995. CNG contends that the result of the combined sale is a decrease in the stranded costs incurred by CNG in disposing of the three largest sales by $1,500,000 through increased proceeds and with the effect of depreciation through December 31, 1995.

In response to the Commission's request to file a default contract, CNG states that Eastern is beginning its negotiations with the producers and shippers on the facilities including the Independent Oil & Gas Association of West Virginia (IOGA). CNG states that it has agreed to sell and Eastern has agreed to purchase the facilities subject to the Commission's default contract requirements regarding rates and fuel loss. It is stated that the sale to Eastern is based on the default gathering rates which are anticipated to be in effect beginning January 1996, as provided in CNG's rate settlement before the Commission in Docket No. RP94–96–000.

CNG anticipates that a default contract can be filed with the Commission in the near future that will be acceptable to most producers and shippers which Eastern and IOGA have agreed upon. CNG understands that Big Sandy and Parker & Parsley will be filing pleadings in their respective dockets reflecting these changed circumstances and Eastern will also file in these dockets to be substituted as petitioner.

CNG also requests that the response date for filing a default contract be extended to November 1, 1995. CNG states that Big Sandy has authorized CNG to file on its behalf this response to the Commission's letter dated August 30, 1995 in Docket No. CP93–200–000 and CP93–198–000.

Comment date: October 27, 1995 in accordance with Standard Paragraph F at the end of this notice.

3. Mountain Fuel Supply Company v. Prima Exploration, Inc., BTA Oil Producers, and NGC Energy Resources, Limited Partnership

[Docket No. CP95–784–000]

Take notice that on September 28, 1995, Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84111 filed with the Commission in Docket CP95–784–000 a complaint against Prima Exploration, Inc. (Prima), 7800 East Union Avenue, Denver, Colorado 80237, BTA Oil Producers, (BTA) 104 South Pecos, Midland, Texas 79701, and NGC Energy Resources, Limited Partnership, 13430 Northwest Freeway, Suite 1200, Houston 77040–6095 (NER). Mountain Fuel states that its complaint is based on Prima's failure to comply with the Commission's order in Docket No. CP93–702–000 [1] authorizing Prima to withdraw and deliver to Mountain Fuel its storage gas at the Bridger Lake Field in Summit County, Utah and Uinta County, Wyoming. Mountain Fuel also states that its complaint against BTA and NER is based on their acquisition from Prima of the certificated storage facilities and operation of the facilities to provide certificated service to Mountain Fuel without first having obtained the necessary authorization from the Commission. Mountain Fuel further states that neither Prima, BTA nor NER have made an effort to comply with the requirements of the order in Docket No. CP93–702–000 to return Mountain Fuel's storage gas in a timely manner.

Mountain Fuel requests that the Commission issue an order (i) directing Prima, or BTA and NER, as the case may be to withdraw and deliver the balance of Mountain Fuel's gas at Bridger Lake by October, 13, 1996, (ii) ordering Prima, or BTA and NER, as the case may be, to purchase and deliver to Mountain Fuel at withdrawal rates in accordance with the 1992 letter agreement, the gas they cannot redeliver pursuant to the 1994 order, and (iii) providing Mountain Fuel any other relief the Commission deems appropriate.

Comment date: November 6, 1995 in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

4. ANR Pipeline Company

[Docket No. CP95–788–000]

Take notice that on September 28, 1995, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP95–788–000 an application pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon a natural gas exchange service between ANR and Union Oil Company of California (UNOCAL), all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR proposes to abandon the service which was authorized by the Commission in Docket No. CP81–13–000, and carried out under the terms of an agreement dated June 27, 1980, and on file as Rate Schedule X–113 of ANR's FERC Gas Tariff, Original Volume No. 2. It is stated that Michigan Wisconsin Pipe Line (MichWisc), ANR's predecessor, was authorized to deliver up to 3,000 Mcf of gas per day for UNOCAL for maximum periods of 3 days per exchange transaction at a point near ANR's Creole Meter Station, located offshore Louisiana. It is stated that UNOCAL was authorized to redeliver equivalent quantities of gas to MichWisc at the same point.

It is stated that in a letter dated September 20, 1993, ANR notified UNOCAL of its intent to terminate the service. It is asserted that the purpose of the service was to facilitate the recovery

[1] Phillips Petroleum Company and Prima Exploration, Inc., *et al.*, 69 FERC 61,050 (1994).

of UNOCAL's oil reserves, which are now fully depleted. It is further asserted that UNOCAL has signed ANR's letter to indicate its agreement with ANR's request for abandonment.

Comment date: October 27, 1995 in accordance with Standard Paragraph F at the end of this notice.

5. Columbia Gulf Transmission Company

[Docket No. CP96–4–000]

Take notice that on October 3, 1995, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP96–4–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to modify an existing receipt point and establish an additional delivery point to Delta Natural Gas Company, Inc., (Delta) in Madison County, Kentucky, under Columbia Gulf's blanket certificate issued in Docket No. CP83–496 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia Gulf requests authorization to make certain modifications to its existing Speedwell receipt point and establish a delivery point for firm transportation service. Columbia Gulf states that it would provide the service pursuant to its Blanket Certificate issued in Docket No. CP83–496 under existing authorized rate schedules and within certificate entitlements, as follows:

Customer	Rate schedule	Maximum daily quantity (Dth)	Estimated annual quantity (Dth)
Delta	Firm Transportation Service (FTS)	4,000	1,460,000

Columbia Gulf states that the modifications to the existing Speedwell point of receipt, which will be established as a delivery point, has been requested by Delta for additional firm transportation service to be utilized for its system supply. Columbia Gulf adds that the additional transportation service to be provided through the new point of delivery will be firm transportation service under Columbia Gulf's Rate Schedule FTS.

Columbia Gulf states that Columbia Gulf and Delta have executed an FTS–1 Service Agreement providing for an FTS Demand Service of 4,000 Dth/d. Columbia Gulf adds that it will receive 4,000 Dth/d for the account of Delta at Leach, Kentucky from Columbia Gas Transmission Corporation (Columbia Gas), and that Columbia Gulf will deliver by backhaul to Delta at the new point of delivery at Speedwell. Columbia Gulf states that Columbia Gas has revised its GTS service agreement with Delta to provide 4,000 Dth/d at Leach.

Columbia Gulf states there will be no impact on Columbia Gulf's existing design day and annual obligations to its customers due to the nature of the backhaul. Columbia Gulf states that Delta has agreed to reimburse Columbia Gulf 100% of the cost of the modification, which is approximately $3,861, including gross-up for income tax purposes. Columbia Gulf adds that it will contribute approximately $45,000 for the cost of a filter separator to be installed.

Columbia Gulf states that it will comply with all of the environmental requirements of Sections 157.206(d) of the Commission's Regulations prior to the modification of any facilities.

Comment date: November 20, 1995 in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP96–5–000]

Take notice that on October 3, 1995, Williams Natural Gas Company (WNG), One Williams Center, Tulsa, Oklahoma, 74101, filed in Docket No. CP96–5–000, a request pursuant to Sections 157.205, 157.212(a) and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212(a), and 157.216(b)) for authorization to abandon by reclaim two separate town border meter settings used in the delivery of gas to Missouri Gas Energy (MGE) and to replace them with a single dual run meter setting under WNG's blanket authorization issued in Docket No. CP82–479–000, 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.

WNG proposes to replace the MGE Cassville/Purdy and Monett single run meter settings with a dual run 6-inch orifice meter setting at the present Cassville/Purdy site in Lawrence County, Missouri. WNG asserts that the projected volume of delivery through the replacement facilities is not expected to exceed the volume currently delivered. WNG relates that the reclaim cost is estimated to be $1,000 with a salvage value of $0. WNG indicates that the estimated cost of construction is approximately $118,555.

WGN states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers. WGN further states that it has contacted MGE and MGE is agreeable to its proposed modifications. WNG relates that a copy of this filing was sent to the Missouri Public Service Commission.

Comment date: November 20, 1995 in accordance with Standard Paragraph G at the end of this notice.

7. Prima Exploration, Inc., et al., BTA Oil Producers and NGC Energy Resources, Limited Partnership

[Docket No. CP95–791–000]

Take notice that on September 29, 1995, Prima Exploration, Inc. (Prima[2]), 7800 East Union Avenue, Suite 605, Denver, Colorado 80237, BTA Oil Producers (BTA) and NGC Energy Resources, Limited Partnership (NGC) 13430 Northwest Freeway, Suite 1200, Houston, Texas 77040 (collectively, BTA/NER) jointly filed in Docket No. CP95–791–000 an application pursuant to Section 7 (b) and (c) of the Natural Gas Act requesting permission and approval for Prima to abandon a storage service and related facilities in Summit County, Utah and for authorization for BTA/NER to acquire the facilities and to continue to provide the storage service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Prima states that it is engaged in providing gas storage service from the Bridger Lake Field in Summit County, Utah for Mountain Fuel Supply Company (Mountain Fuel) pursuant to a limited jurisdiction certificate issued in

[2] Prima is a joint venture of four independent exploration and production companies, Prima Exploration, Inc., the operator; Vegas Production Company; Gunlikson Petroleum, Inc.; and Petroro Corporation.

Docket No. CP93–702–000.[3] Prima relates that it wishes to transfer its interests in these facilities to BTA/NER and requests permission and approval to abandon the storage service it provides for Mountain Fuel and the related facilities by transfer to BTA/NER.

BTA/NER request authorization to continue to provide the storage service for Mountain Fuel and to acquire the related facilities. BTA/NER, noting that the certificate granted to Prima was to expire in two years, state that it has become apparent that additional time will be required for the withdrawals and redelivery of storage gas to Mountain Fuel. BTA/NER ask that the requested certificate expire in five years.

Prima indicates that the related facilities consist of a metering station, dehydrator and heater, 425 feet of 4-inch lateral pipeline and a single natural gas injection well located in Summit County, Utah. Prima also states that no gas has been injected into the facilities since April of 1984 and less than 0.5 Bcf of working gas remains in storage.

Comment date: October 27, 1995 in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 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 a grant of the certificate and/or 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 applicant to appear or be represented at the hearing.

G. 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 Section 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. 95–25529 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–P

[3] Phillips Petroleum Company and Prima Exploration, Inc., *et al.*, 69 FERC 61,050 (1994).

[Docket No. CP95–782–000, et al.]

Florida Gas Transmission Company, et al.; Natural Gas Certificate Filings

October 5, 1995.

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

1. Florida Gas Transmission Company

[Docket No. CP95–782–000]

Take notice that on September 27, 1995, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–782–000, an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment of the interruptible transportation service performed under FGT's Rate Schedule X–11, all as more fully set forth in the application.

FGT relates that Rate Schedule X–11 is a transportation service between Southern Natural Gas Company (SNG) and FGT which was authorized in Docket No. CP79–472–000. FGT states in its application that it is not abandoning any facilities nor abandoning service to any other FGT customer.

FGT has included in this filing a letter dated September 13, 1995, in which both FGT and SNG have agreed to waive the six-month notice of termination requirements set forth in Article VII of the transportation agreement dated August 2, 1979, as amended, in order that the referenced agreement can terminate effective October 1, 1995.

Comment date: October 26, 1995, in accordance with Standard Paragraph F at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP95–787–000]

Take notice that on September 28, 1995, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, NY 14203, filed under Section 7(c) of the Natural Gas Act a petition to amend its certificate by allowing a change in receipt/delivery points and under Section 7(b) to abandon individually certificated transportation services, all as more fully described in the petition on file with the Commission and open to public inspection.

Applicant requests an order authorizing a change in the receipt/delivery points under SS–1 storage service agreements with Elizabethtown Gas Company and Transcontinental Gas Pipeline Company, and SS–2 storage service agreements with Penn Fuel Gas, Inc. and Delmarva Power and Light Company. Applicant also seeks the abandonment of transportation Rate Schedules X–29, X–31, X–32 and X–42. These service agreements will not be needed by the customers if the proposed change in receipt/delivery points is approved. Applicant states that this petition is part of a settlement agreement filed in Docket No. RP95–31–000, *et al.*

Comment date: October 26, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP95–790–000]

Take notice that on September 29, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP95–790–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install new custody transfer measuring and appurtenant facilities for Western Resources, Inc. (WRI) in Johnson County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to install new custody transfer measuring and appurtenant facilities. WNG states that new facilities will more accurately measure volumes presently flowing to the WRI facilities. The total annual volume to be delivered through the new facilities is estimated to be approximately 1.09 Bcf with a peak day volume of 21.3 MMcf. WNG states that the total volume to be delivered will not exceed the total volume authorized prior to this request and that the estimated cost of construction is $217,453, which will be paid with available funds.

Comment date: November 20, 1995, in accordance with Standard Paragraph G at the end of this notice.

4. Mississippi River Transmission Corporation

[Docket No. CP96–1–000]

Take notice that on October 2, 1995, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP96–1–000 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity for authorization to construct, install, and operate a new 2,250 Horsepower (HP) compressor engine at its Unionville Compressor Station in Lincoln Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT states that its Unionville Compressor Station currently contains three compressor engines—two 6,500 HP units and one 8,000 HP unit. MRT indicates that it uses these engines primarily to compress gas which is injected into and withdrawn from the East and West Unionville Storage Fields, although the units are also used occasionally to compress gas flowing from west to east along MRT's West Line and gas flowing from the West Line into the Fountain Hill Line.

MRT proposes to add a 2,250 HP compressor engine with compressor cylinders designed for low ratio compression in order to operate the Unionville Station more efficiently and economically. MRT notes that the existing compressor units have cylinders designed for high ratio, 2-stage compression to storage. It is explained that when utilized for low ratio, single stage compression, the engines are inefficient and cannot be fully loaded. MRT asserts that the new unit will be used to compress gas at low ratios for pipeline compression or for mid to late-season storage withdrawal and will perform these tasks far more efficiently than MRT's existing larger units. MRT maintains that the new unit will produce fuel savings and reduce station operation and maintenance expenses.

MRT claims that an additional benefit of the propose engine is that it will have greater flexibility in operating the Unionville Station. MRT notes that it will have the option to simultaneously overhaul or make long-term repairs to two of the existing engines while operating the new unit. Currently, MRT can only take one unit out of service during the storage withdrawal season. In addition, the new engine can be used to compress West Line gas to Perryville or into the Fountain Hill Line when all three of the existing engines are being utilized for storage operations. Finally, MRT points out that the new engine can be used to facilitate the compression of gas being injected into storage by one of the existing compressors in a multi-stage compression.

MRT states that the proposed compressor engine will not increase the capacity of any of MRT's facilities. MRT explains that the capacity of the West Line and the Fountain Hill Line are constrained by bottlenecks upstream or downstream of the Unionville Station. The capacity and maximum daily deliverability of the East and West Unionville Storage Fields are constrained by the size of the storage reservoirs and their prevailing pressures.

MRT estimates that the project will cost $4,100,000, which will be financed with internally generated funds.

Comment date: October 26, 1995, in accordance with Standard Paragraph F at the end of this notice.

5. Trunkline Gas Company

[Docket No. CP96–2–000]

Take notice that on October 2, 1995, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP96–2–000 a request pursuant to Sections 157.205, 157.211, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, 157.216) for authorization to abandon an existing receipt interconnect located in Jim Wells County, Texas, and modify the existing facilities to establish a point of delivery under Trunkline's blanket certificate issued in Docket No. CP83–84–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Trunkline proposes to abandon an inactive receipt interconnect and appurtenant facilities and to modify the existing facility to create a point of delivery. The approximate cost of the proposed construction is $700,000 and will be paid for with existing funds and internal financing. The facilities will allow Trunkline to deliver up to 150 MMSCF of natural gas per day to the Mobil LaGloria gas processing plant.

Comment date: November 20, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 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 a grant of the certificate and/or 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 applicant to appear or be represented at the hearing.

G. 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 Section 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. 95–25543 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–6–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

October 10, 1995.

Take notice that on October 4, 1995, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP96–6–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to modify and operate an existing interconnection between ANR and Continental Natural Gas, Inc. (CNG) in Beaver County, Oklahoma for delivery of natural gas to CNG under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR proposes to modify an existing interconnection (CNG ''A'' Station) in Beaver County, Oklahoma and to operate this interconnection under Section 7(c) of the Natural Gas Act. Currently, ANR receives gas at the CNG ''A'' Station. ANR's proposed modification would change the direction of the gas flow and allow ANR to deliver natural gas at this station. The proposed modification to CNG ''A'' station would consist of a new valve, an electronic measurement system, a gas sampler and appurtenant facilities. ANR states that the cost of the proposed facilities is approximately $25,000.

ANR would provide CNG with deliveries at the CNG ''A'' Station under Rate Schedule IT of its FERC Gas Tariff, Second Revised Volume No. 1. The maximum capacity of the CNG ''A'' Station would be 6,000 Mcf per day. ANR states that the volumes to be delivered will be within the certificated entitlements of the customer.

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 Section 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. 95–25533 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. ER95–1444–000; Docket No. ER95–1465–000]

IES Utilities, Inc., Industrial Energy Applications, Inc.; Notice of Issuance of Order

October 10, 1995.

On August 1, 1995, Industrial Energy Applications, Inc. (Industrial Energy), a power marketing affiliate of IES Utilities, Inc.[1] filed an application in Docket No. ER95–1465–000, requesting Commission approval to sell electricity at market-based rates, and requesting various waivers and authorizations. Under Industrial Energy's proposed rate schedule for its marketing activities, it would sell both capacity and energy to prospective purchasers at such market-based rates as may be agreed upon by the parties.

In particular, Industrial Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Industrial Energy. On September 28, 1995, the Commission issued an Order Denying Motions to Reject and for Investigation and Technical Conference, Accepting for Filing Proposed Transmission Tariffs, Accepting for Filing Market-Based Rate Schedule, and Granting Requests for Waivers and Authorizations (Order), in the above-docketed proceedings.

The Commission's September 28, 1995 Order granting the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (I), (J), and (L):

(I) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Industrial Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(J) Absent a request to be heard within the period set forth in Ordering Paragraph (I) above, Industrial Energy is hereby authorized, pursuant to section 204 of the Federal Power Act, to issue securities and assume obligations and liabilities as guarantor, executor, security, or otherwise in respect to any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Industrial Energy, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(L) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Industrial Energy's issuances of securities or assumptions of liabilities.

* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 30, 1995.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25544 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–M

[1] Industrial Energy is a wholly-owned subsidiary of IES Industries, Inc.

[Docket No. CP96–3–000]

K N Interstate Gas Transmission Company; Notice of Request Under Blanket Authorization

October 10, 1995.

Take notice that on October 3, 1995, K N Interstate Gas Transmission (K N Interstate), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP96–3–000 a request pursuant to Section 7 of the Natural Gas Act, as amended, and Sections 157.205, 157.212, 157.216(b) for authorization to relocate three existing town border stations, located in the State of Kansas, which are currently used to deliver gas to town distribution systems operated by K N Energy, Inc. Specifically, K N Interstate proposes to install and operate new delivery facilities for the town of Albert, Healy and Leoti, Kansas. K N Interstate states that relocation of the town border stations is in the public interest due to safety concerns resulting from encroachment and the locations of roadways. K N Interstate further states that no customer would experience any change in service as a result of the proposal herein. This request is made in accordance with the authority granted to K N Interstate in its blanket certificate issued in Docket No. CP83–140–000 pursuant to 18 CFR. Part 157, Subpart F of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

K N Interstate states that it proposes to install the: (1) Albert town border station facilities in Rush County, Kansas; (2) Healy town border station facilities in Lane County, Kansas; and (3) Leoti town border station facilities in Wichita County, Kansas. It is stated that each of the proposed facilities would consist of a meter, regulator, and overpressure protection and appurtenant facilities.

K N Interstate states that the estimated cost of these facilities would be: Albert, $47,500; Healy, $50,000; and Leoti, $60,000. It is further stated that the estimated cost of retiring the existing facilities would be: Albert, $4,000; Healy, $6,000; and Leoti, $9,000.

K N Interstate further states that the average daily capacity and the maximum daily design capacity for each town border would be: Albert, 34 Mcf and 200 Mcf, respectively; Healy 65 Mcf and 275 Mcf, respectively; and Leoti, 410 Mcf and 1,560 Mcf, respectively.

K N Interstate states that once the new town border stations have been placed into service it would abandon in place the existing town border stations. K N Interstate further proposes to remove all aboveground facilities and restore the site consistent with the surrounding land use.

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 Section 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. 95–25532 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–785–000]

NorAm Gas Transmission Company; Notice of Application

October 10, 1995.

Take notice that on September 28, 1995, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–785–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale and transfer to Mississippi River Transmission Corporation (MRT) Line JT–5 with appurtenances in White County, Arkansas, all as more fully set forth in the application on file with the Commission and open to public inspection.

NGT proposes to sell and transfer to MRT, at net book value of $6.3 million Line JT–5 and its appurtenances, which consist of 53,306 feet of 24-inch pipe, one 2470 Solar Flow Computer, one Teledine 1085 RTU and appurtenant valving and equipment which was constructed as an interconnection between Ozark Gas Transmission Company and MRT. NGT provided open access transportation service through this line and upon abandonment of these facilities, and as stated by NGT, all transportation service conducted through this line will be abandoned by NGT; however, such transportation will continue to be available under MRT's tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 31, 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 NGT to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25531 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–650–000; Docket No. CP95–658–000]

Questar Pipeline Company; Questar Gas Management Company; Notice of Technical Conference

October 10, 1995.

Take notice that on October 31, 1995, at 10 a.m., the Commission Staff will convene a technical conference to discuss the issues raised in the above-captioned dockets. The proceedings involve Questar Pipeline Company's proposed spin-down of all jurisdictional and non-jurisdictional gathering facilities to Questar Gas Management

Company, a wholly owned, non-jurisdictional affiliate of Questar Pipeline Company.

The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. All interested parties are invited to attend. Attendance at the conference will not confer party status.

For further information, contact Amos Qualls (202) 208–0606, Office of Pipeline Regulation, Room 7312–B; or Joel Arneson (202) 208–2169, Office of General Counsel, Room 4300–B, 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25530 Filed 10–13–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Continuation of Solicitation for Financial Assistance Program Notice 96–01

AGENCY: Department of Energy (DOE).

ACTION: Annual notice of continuation of availability of grants and cooperative agreements.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy hereby announces its continuing interest in receiving applications for cooperative agreements and grants supporting work in the following programs: Basic Energy Sciences, Biological and Environmental Research, Fusion Energy, Applied Mathematical Sciences, Multi-Program Energy Laboratory—Facilities Support, Science Education Programs, High Energy and Nuclear Physics, and Energy Research Analysis activities. On September 3, 1992, DOE published in the Federal Register (57 FR 40582) a solicitation for this program which contained information about submission of applications, eligibility, limitations, evaluation and selection processes and other policies and procedures which are specified in 10 CFR part 605.

DATES: Applications may be submitted at any time in response to this notice of availability, but, in all cases, must be received by DOE on or before October 31, 1996.

ADDRESSES: Applicants may obtain forms and additional information from Director, Grants and Contracts Division, Office of Energy Research, ER–64, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, (301) 903–5212. Completed applications must be sent to this same address. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following E-mail address: http://www.er.doe.gov/

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitation for the Office of Energy Research Financial Assistance Program was published in the Federal Register. This solicitation specifies the policies and procedures which govern the application, evaluation, and selection processes for grants and cooperative agreements. It is anticipated that approximately $460 million will be available for award in FY 1996. The DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this notice.

Issued in Washington, DC, on October 2, 1995.

D.D. Mayhew,

Associate Director, Office of Resource Management, Office of Energy Research.

[FR Doc. 95–25594 Filed 10–13–95; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

October 10, 1995.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0613.

Expiration Date: 09/30/98.

Title: Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141, Transport Phase II (Third R&O).

Estimated Annual Burden: 832 total annual hours; average 13 hours per respondent; 64 respondents.

Description: Tier 1 local exchange carriers (except NECA members) are required to make tariff filings to provide certain signalling information to interested parties so that those parties can provide tandem switching services. Tandem switching providers are required to provide certain billing information to those Tier 1 local exchange carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25550 Filed 10–13–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1070–DR]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 4, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 4, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Alabama resulting from Hurricane Opal on October 4, 1995, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a disaster exists in the State of Alabama.
>
> You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the disaster on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the disaster. I have further authorized direct Federal assistance for the first 72 hours at 100 percent Federal funding, if deemed

necessary. You may extend this assistance for an additional period of time, if warranted.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal assistance and administrative expenses.

Individual Assistance, Public Assistance or Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act except as noted in the paragraph above will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the State of Alabama to have been affected adversely by this declared major disaster:

The State of Alabama for assistance as follows:

FEMA is authorized to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at its discretion, equipment and resources necessary to alleviate the impacts of the disaster. Direct Federal assistance is authorized for the first 72 hours at 100 percent Federal funding, if deemed necessary.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–25577 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1070–DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama, (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 10, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama dated October 4, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

The counties of Baldwin, Barbour, Bullock, Crenshaw, Elmore, Lee, Macon, Mobile, Montgomery, Russell and Tallapoosa for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–25578 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1070–DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 10, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 8, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–25579 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1070–DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama, (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 8, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama dated October 4, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

Covington, Conecuh, Geneva, Henry, and Houston Counties for Individual Assistance, Public Assistance, and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–25580 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1069–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 4, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 4, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Opal on October 4, 1995, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a disaster exists in the State of Florida.

You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the disaster on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the disaster. I have further authorized direct Federal assistance for the first 72 hours at 100 percent Federal funding, if deemed necessary. You may extend this assistance for an additional period of time, if warranted.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal assistance and administrative expenses.

Individual Assistance, Public Assistance or Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act except as noted in the paragraph above will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Bruce Baughman of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

The counties of Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Calhoun, Wakulla, Washington, Holmes, Jackson, Gadsden, Liberty, Leon and Franklin for assistance as follows: FEMA is authorized to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lesson or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at its discretion, equipment and resources necessary to alleviate the impacts of the disaster. Direct Federal assistance for the first 72 hours at 100 percent Federal funding.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–25574 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 8, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida dated October 4, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

Gulf, Holmes, and Washington for Individual Assistance, Public Assistance, and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–25576 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1067–DR]

U.S. Virgin Islands; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the U.S. Virgin Islands, (FEMA–1067–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 29, 1995, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 51521 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in the U.S. Virgin Islands, resulting from Hurricane Marilyn on September 15–17, 1995, is of sufficient severity and magnitude that special cost-sharing conditions are warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act'').

Therefore, I amend my declaration of September 16 to authorize Federal funds for the Individual and Family Grant and Hazard Mitigation programs at 90 percent of total eligible costs. I further authorize Public Assistance program funding at 90 percent of total eligible costs except for direct Federal assistance for emergency work which was authorized prior to September 30, 1995.

Please notify the Governor of the U.S. Virgin Islands and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–25575 Filed 10–13–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[No. 95–N–8]

Notice of Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added a new Section 10(g) to the Federal Home Loan Bank Act of 1932 requiring that members of the Federal Home Loan Bank (FHLBank) System meet standards for community investment or service in order to maintain continued access to long-term FHLBank System advances. In compliance with this statutory change, the Federal Housing Finance Board (Housing Finance Board) promulgated Community Support regulations (12 CFR part 936). Under the review process established in the regulations, the Housing Finance Board will select a certain number of members for review each quarter, so that all members that

are subject to the Community Reinvestment Act of 1977, 12 U.S.C. 2901 *et seq.*, (CRA), will be reviewed once every two years. The purpose of this Notice is to announce the names of the members selected for the seventh quarter review (1994–95 cycle) under the regulations. The Notice also conveys the dates by which members need to comply with the Community Support regulation review requirements and by which comments from the public must be received.

DATES: *Due Date for Member Community Support Statements for Members Selected in Seventh Quarter Review:* November 30, 1995.

Due Date for Public Comments on Members Selected in Seventh Quarter Review: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph A. McKenzie, Associate Director, Office of Housing Finance, (202) 408–2845, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

A. Selection for Community Support Review

The Housing Finance Board currently reviews all FHLBank System members that are subject to CRA approximately once every two years. Approximately one-eighth of the FHLBank members in each district will be selected for review by the Housing Finance Board each calendar quarter. To date, only members that are subject to CRA have been reviewed. In selecting members, the Housing Finance Board follows the chronological sequence of the members' CRA Evaluations post-July 1, 1990, to the greatest extent practicable, selecting one-eighth of each District's membership for review each calendar quarter. However, the Housing Finance Board will postpone review of new members until they have been System members for one year.

Selection for review is not, nor should it be construed as, any indication of either the financial condition or Community Support performance of the institutions listed.

B. List of FHLBank Members To Be Reviewed in the Seventh Quarter, Grouped by FHLBank District

Member	City	State
Federal Home Loan Bank of Boston—District 1 Post Office Box 9106 Boston, Massachusetts 02205–9106		
Bank of Boston, Connecticut	Hartford	CT
American Savings Bank	New Britain	CT
Belmont Savings Bank	Belmont	MA
The Lenox National Bank	Lenox	MA
Northmark Bank	North Andover	MA
South Weymouth Savings Bank	South Weymouth	MA
Westborough Savings Bank	Westborough	MA
Merrill Merchants Bank	Bangor	ME
Union Trust Company	Ellsworth	ME
Norway Savings Bank	Norway	ME
Federal Home Loan Bank of New York—District 2 Seven World Trade Center 22nd Floor New York, New York 10048–1185		
First Savings Bank of Little Falls, S.L.A.	Little Falls	NJ
Millville Savings and Loan Association	Millville	NJ
Cloverbank	Pennsauken	NJ
Pulse Savings Bank	South River	NJ
Cenlar Federal Savings Bank	Trenton	NJ
Llewellyn-Edison Savings Bank, SLA	West Orange	NJ
Crossland Federal Savings Bank	Brooklyn	NY
Flushing Savings Bank, F.S.B.	Flushing	NY
Gouverneur Savings and Loan	Gouverneur	NY
Poughkeepsie Savings Bank, FSB	Poughkeepsie	NY
Homestead Savings, F.A.	Utica	NY
Community Mutual Savings Bank	White Plains	NY
Firstbank Puerto Rico	Santurce	PR
Federal Home Loan Bank of Pittsburgh—District 3 601 Grant Street Pittsburgh, Pennsylvania 15219–4455		
Delaware Savings Bank, F.S.B.	Wilmington	DE
Fidelity S&LA of Bucks County	Bristol	PA
Citizens Savings Association	Clarks Summit	PA
Lafayette Bank	Easton	PA
First National Bank in Fleetwood	Fleetwood	PA
First Federal Savings Bank	Hanover	PA
S&T Bank	Indiana	PA
Mid Penn Bank	Millersburg	PA
Peoples Bank of Oxford	Oxford	PA
Dwelling House Savings and Loan Association	Pittsburgh	PA

Member	City	State
First Pennsylvania Savings Association	Pittsburgh	PA
Stanton Federal Savings and Loan Association	Pittsburgh	PA
Turbotville National Bank	Turbotville	PA
Woodlands Bank	Williamsport	PA
Greenbrier Valley National Bank	Lewisburg	WV
One Valley Bank	Point Pleasant	WV
Fed One Bank	Wheeling	WV

Federal Home Loan Bank of Atlanta—District 4
Post Office Box 105565
Atlanta, Georgia 30348

Central Bank of the South	Birmingham	AL
Bank of Dadeville	Dadeville	AL
First Southern Bank	Florence	AL
First Alabama Bank	Montgomery	AL
Troy Bank and Trust Company	Troy	AL
Security Federal Bank, a Federal Savings Bank	Tuscaloosa	AL
Crestar Bank N.A.	Washington	DC
BankBoynton, a FSB	Boynton Beach	FL
First Federal Savings Bank of the Glades	Clewiston	FL
Gibraltar Savings and Loan Association	Hialeah	FL
Barnett Bank of Polk County	Lakeland	FL
Bank of Naples	Naples	FL
Ocala National Bank	Ocala	FL
U.S. Trust Company of Florida Savings Bank	Palm Beach	FL
J.P. Morgan Florida, Federal Savings Bank	Palm Way	FL
Community Savings, F.A.	Riviera Beach	FL
Citrus Bank, N.A.	Vero Beach	FL
Trust Company Bank of South Georgia, N.A.	Albany	GA
United Bank	Barnesville	GA
First Federal Savings Bank of S.W. Georgia	Donalsonville	GA
Clayton County FS&LA	Jonesboro	GA
Bank of Perry	Perry	GA
Savannah Bank, N.A.	Savannah	GA
Park Avenue Bank	Valdosta	GA
First Mariner Bank	Baltimore	MD
Kosciuszko Federal Savings Bank	Baltimore	MD
Columbia Bank	Columbia	MD
Sandy Spring National Bank	Olney	MD
Carroll County Bank and Trust Company	Westminster	MD
Belmont Federal Savings & Loan Association	Belmont	NC
Anchor Bank	Hampstead	NC
Morganton FS&LA	Morganton	NC
Security Savings and Loan Association	Southport	NC
United Carolina Bank	Whiteville	NC
Enterprise National Bank and Trust Company	Winston-Salem	NC
Peoples National Bank	Easley	SC
Lowcountry Savings Bank, Inc.	Mount Pleasant	SC
Union Federal Savings Bank	Union	SC
Union Bank & Trust Company	Bowling Green	VA
National Bank of Fredericksburg	Fredericksburg	VA
Greater Atlantic Savings Bank, F.S.B.	Herndon	VA
Bank of McKenney	McKenney	VA
Patriot National Bank	Reston	VA
Southern Financial Federal Savings Bank	Warrenton	VA

Federal Home Loan Bank of Cincinnati—District 5
Post Office Box 598
Cincinnati, Ohio 45201

Union National Bank and Trust Company	Barbourville	KY
Trans Financial Bank, N.A.	Bowling Green	KY
Trigg County Farmers Bank	Cadiz	KY
Taylor County Bank	Campbellsville	KY
Provident Bank of Kentucky	Cold Springs	KY
First Federal Savings Bank of Elizabethtown	Elizabethtown	KY
City National Bank	Fulton	KY
Commonwealth Community Bank	Hartford	KY
Citizens Bank	Hickman	KY
First State Bank	Irvington	KY
Anderson National Bank	Lawrenceburg	KY
First Federal Savings & Loan of Lexington	Lexington	KY

Member	City	State
Whitaker Bank, N.A.	Lexington	KY
First National Bank	Louisa	KY
PNC Bank Kentucky, Inc.	Louisville	KY
First National Bank of Manchester	Manchester	KY
Green River Bank	Morgantown	KY
First National Bank and Trust Company	Nicholasville	KY
Citizens National Bank of Paintsville	Paintsville	KY
West Point National Bank	Radcliff	KY
Sebree Deposit Bank	Sebree	KY
Shelby County Trust Bank	Shelbyville	KY
Peoples Bank	Taylorsville	KY
Farmers & Merchants State Bank	Archbold	OH
Caldwell Savings and Loan Company	Caldwell	OH
Pioneer Savings Bank	Cleveland	OH
Citizens Federal Savings and Loan Association	Delphos	OH
Croghan Colonial Bank	Fremont	OH
Killbuck Savings Bank Company	Killbuck	OH
Springfield Federal Savings Bank	Springfield	OH
Peoples Savings Bank of Troy	Troy	OH
Brownsville Bank	Brownsville	TN
First Federal Savings Bank	Clarksville	TN
Middle Tennessee Bank	Columbia	TN
Victory Bank and Trust Company	Cordova	TN
Union Savings Bank	Covington	TN
Security Bank	Dyersburg	TN
Greeneville Federal Bank, FSB	Greeneville	TN
Citizens Bank of Blount County	Maryville	TN
City Bank & Trust Company	McMinnville	TN
NBC Knoxville Bank, FSB	Memphis	TN
National Bank of Commerce	Memphis	TN
Oakland Deposit Bank	Oakland	TN
Bank of Sharon	Sharon	TN
Merchants and Planters Bank	Toone	TN
First State Bank	Union City	TN
Federal Home Loan Bank of Indianapolis—District 6 P.O. Box 60 Indianapolis, IN 46205–0060		
Star Financial Bank	Anderson	IN
First Community Bank and Trust	Bargersville	IN
Hendricks County Bank and Trust Company	Brownsburg	IN
Bank of Western Indiana	Covington	IN
First National Bank of Dana	Dana	IN
Permanent Federal Savings Bank	Evansville	IN
The Garrett State Bank	Garrett	IN
First National Bank	Kokomo	IN
LaPorte Savings Bank	LaPorte	IN
Dearborn Savings, F.A.	Lawrenceburg	IN
Farmers and Merchants State Bank	Logansport	IN
North Salem State Bank	North Salem	IN
Ripley County Bank	Osgood	IN
Tri-County Bank & Trust Company	Roachdale	IN
Central National Bank of Howard County	Russiaville	IN
Valley American Bank and Trust	South Bend	IN
Citizens National Bank	Tell City	IN
American National Bank	Vincennes	IN
Bank of Lenawee	Adrian	MI
Blissfield State Bank	Blissfield	MI
Byron Center State Bank	Byron Center	MI
Capac State Bank	Capac	MI
First National Bank of Crystal Falls	Crystal Falls	MI
First National Bank of Gaylord	Gaylord	MI
First Community Bank	Harbor Springs	MI
MFC First National Bank of Ironwood	Ironwood	MI
G. W. Jones Exchange Bank	Marcellus	MI
National Bank of Royal Oak	Royal Oak	MI
University Bank	Sault St. Marie	MI
Sparta State Bank	Sparta	MI
Midwest Guaranty Bank	Troy	MI

Member	City	State
Federal Home Loan Bank of Chicago—District 7 111 East Wacker Drive Suite 700 Chicago, Illinois 60601		
Mercantile Bank	Alton	IL
Peoples Bank	Bloomington	IL
Farmers State Bank of Buffalo	Buffalo	IL
Home Federal Savings & Loan	Carbondale	IL
Chicago Building Loan & Homestead Association	Chicago	IL
LaSalle National Bank	Chicago	IL
LaSalle Talman Bank, FSB	Chicago	IL
Pioneer Bank & Trust Company	Chicago	IL
Old Kent Bank	Elmhurst	IL
First Bank North	Freeport	IL
Advance Bank, s.b.	Lansing	IL
LaSalle Bank Matteson	Matteson	IL
Bank of Illinois in Normal	Normal	IL
Hemlock Federal Bank for Savings	Oak Forest	IL
Community Bank & Trust, sb	Olney	IL
First Bankers Trust Company, N.A.	Quincy	IL
Busey Bank	Urbana	IL
Cole Taylor Bank	Wheeling	IL
First National Bank and Trust Company	Beloit	WI
Denmark State Bank	Denmark	WI
Mitchell Savings Bank, S.A.	Greenfield	WI
State Bank of La Crosse	La Crosse	WI
Park Bank	Madison	WI
Bay View Federal Savings & Loan Association	Milwaukee	WI
TCF Bank Wisconsin, fsb	Milwaukee	WI
First National Bank of Portage	Portage	WI
Community State Bank	Union Grove	WI
Federal Home Loan Bank of Des Moines—District 8 907 Walnut Street Des Moines, Iowa 50309		
Exchange State Bank	Collins	IA
Hawkeye Bank of Des Moines	Des Moines	IA
Iowa State Bank and Trust Company	Fairfield	IA
First Bank and Trust Company	Glidden	IA
Hawkeye Bank of Humboldt County	Humboldt	IA
First National Bank of Iowa City	Iowa City	IA
Home State Bank	Jefferson	IA
Farmers & Merchants Savings Bank	Manchester	IA
Northwoods State Bank	Northwood	IA
Morningside Bank & Trust	Sioux City	IA
Tama State Bank	Tama	IA
Peoples State Bank	Winthrop	IA
Security Bank Minnesota	Albert Lea	MN
First Security Bank	Byron	MN
Itasca State Bank of Grand Rapids	Grand Rapids	MN
Community First National Bank	Little Falls	MN
National City Bank of Minneapolis	Minneapolis	MN
Peoples State Bank of Plainview	Plainview	MN
First Security State Bank	Sleepy Eye	MN
Cherokee State Bank of St. Paul	St. Paul	MN
Wadena State Bank	Wadena	MN
Polk County Bank	Bolivar	MO
Peoples Bank	Cuba	MO
Farmers & Merchants Bank	Hannibal	MO
City National Savings Bank, FSB	Jefferson City	MO
First National Bank of Platte County	Kansas City	MO
Lexington Building and Loan Association	Lexington	MO
First Bank, CBC	Maryville	MO
St. Clair County State Bank	Osceola	MO
Great Southern Savings Bank, FSB	Springfield	MO
St. Charles FS&LA	St. Charles	MO
Equality Savings and Loan Association, F.A.	St. Louis	MO
Mark Twain Bank	St. Louis	MO
Ramsey Bank	Cando	ND
Gate City Federal Savings Bank	Fargo	ND

Member	City	State
State Bank of Alcester	Alcester	SD

Federal Home Loan Bank of Dallas—District 9
5605 North MacArthur Boulevard
9th Floor
Dallas/Forth Worth, Texas 75261–9026

Member	City	State
Security Bank of Conway, FSB	Conway	AR
Bank of Elkins	Elkins	AR
First Federal Bank of Arkansas, F.A.	Harrison	AR
First Commercial Bank, N.A.	Little Rock	AR
First Bank of Arkansas	Russellville	AR
Citizens Savings & Loan Association	Bogalusa	LA
Homeland Federal Savings Bank	Columbia	LA
First Bank and Trust	New Orleans	LA
First Federal Savings and Loan Association	Opelousas	LA
Springhill Bank & Trust Company	Springhill	LA
Federal Savings Bank of Evangeline Parish	Ville Platte	LA
Bank of Anguilla	Anguilla	MS
Guaranty Bank & Trust Company	Belzoni	MS
Bank of Forest	Forest	MS
Merchants and Farmers Bank	Kosciusko	MS
Citizens State Bank	Magee	MS
First National Bank of Picayune	Picayune	MS
Wilkinson County Savings Bank	Woodville	MS
First Savings Bank, F.S.B.	Clovis	NM
First State Bank Taos	Taos	NM
First International Bank	Bedford	TX
First Federal Savings and Loan of Bryan	Bryan	TX
Texas Community Bank, N.A.	Dallas	TX
Graham Savings and Loan, FA	Graham	TX
Bank United of Texas, FSB	Houston	TX
Pinemont Bank	Houston	TX
Jacksonville Savings & Loan Association	Jacksonville	TX
Keller State Bank	Keller	TX
Hale County State Bank	Plainview	TX
Plano Bank and Trust	Plano	TX
Snyder Savings and Loan Association	Snyder	TX
The First National Bank of Van Alstyne	Van Alstyne	TX
Herring National Bank in Vernon	Vernon	TX

Federal Home Loan Bank of Topeka—District 10
Post Office Box 176
Topeka, Kansas 66601

Member	City	State
Alpine Bank, Aspen	Aspen	CO
Colorado Springs Savings and Loan Association	Colorado Springs	CO
First Bank of Arapahoe County, N.A.	Englewood	CO
Alpine Bank and Trust	Glenwood Springs	CO
First Western National Bank	La Jara	CO
Mancos Valley Bank	Mancos	CO
BestBank	Thornton	CO
Citizens Bank	Westminster	CO
Bank of Colorado—Front Range	Windsor	CO
Fidelity State Bank and Trust Company	Dodge City	KS
Army National Bank	Fort Leavenworth	KS
Investors Federal Savings	Kinsley	KS
Miami County National Bank of Paola	Paola	KS
Plattsmouth State Bank	Plattsmouth	NE
Stromsburg Bank	Stromsburg	NE
First National Bank and Trust Company of Ada	Ada	OK
Charter National Bank	Oklahoma City	OK
First State Bank	Picher	OK
Welch State Bank	Welch	OK

Federal Home Loan Bank of San Francisco—District 11
307 East Chapman Avenue
Orange, California 92666

Member	City	State
Norwest Bank Arizona, NA	Phoenix	AZ
State Savings Bank, F.S.B.	Scottsdale	AZ
Humboldt Bank	Eureka	CA

Member	City	State
Six Rivers National Bank	Eureka	CA
High Desert National Bank	Hesperia	CA
General Bank	Los Angeles	CA
Hancock Savings Bank	Los Angeles	CA
First FS&LA of San Bernardino	San Bernardino	CA
Peninsula Bank of San Diego	San Diego	CA
Visalia Community Bank	Visalia	CA

Federal Home Loan Bank of Seattle—District 12
1501 Fourth Avenue
Seattle Washington 98101–1693

Member	City	State
Key Bank of Alaska	Anchorage	AK
City Bank	Honolulu	HI
First Hawaiian Creditcorp	Honolulu	HI
West One Bank, Idaho, N.A.	Boise	ID
BankWest, N.A.	Kalispell	MT
Bank of the Cascades	Bend	OR
Siuslaw Valley Bank	Florence	OR
South Umpqua State Bank	Roseburg	OR
Clackamas County Bank	Sandy	OR
Bank of Utah	Ogden	UT
Guardian State Bank	Salt Lake City	UT
West One Bank Utah	Salt Lake City	UT
Northwestern Bank, N.A.	Bremerton	WA
Mt. Rainier National Bank	Enumclaw	WA
Whatcom State Bank	Ferndale	WA
U.S. Bank of Washington, N.A.	Seattle	WA
Bank of Vancouver	Vancouver	WA
Bank of Laramie	Laramie	WY
First Federal Savings Bank	Sheridan	WY

C. Due Dates

Members selected for review must submit completed Community Support Statements to their FHLBanks no later than November 30, 1995.

All public comments concerning the Community Support performance of selected members must be submitted to the members' FHLBanks no later than November 30, 1995.

D. Notice to Members Selected

Within 15 days of this Notice's publication in the Federal Register, the individual FHLBanks will notify each member selected to be reviewed that the member has been selected and when the member must return the completed Community Support Statement. At that time, the FHLBank will provide the member with a Community Support Statement form and written instructions and will offer assistance to the member in completing the Statement. The FHLBank will only review Statements for completeness, as the Housing Finance Board will conduct the actual review.

E. Notice to the Public

At the same time that the FHLBank members selected for review are notified of their selection, each FHLBank will also notify community groups and other interested members of the public.

The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

Dated: October 4, 1995.

By the Federal Housing Finance Board.

Rita I. Fair,

Managing Director.

[FR Doc. 95–25216 Filed 10–13–95; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Bren-Mar Properties, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than November 9, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Bren-Mar Properties, Inc., Columbia, Missouri; to acquire 50 percent of the voting shares of Jack's Fork Bancorporation, Inc., Columbia, Missouri, and thereby indirectly acquire Bank of Mountain View, Mountain View, Missouri; Summersville State Bank, Summersville, Missouri; and Texas County Bank, Houston, Missouri.

Board of Governors of the Federal Reserve System, October 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25536 Filed 10–13–95; 8:45 am]

BILLING CODE 6210–01–F

Synovus Financial Corp., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 30, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Synovus Financial Corp., Columbus, Georgia; to engage *de novo* through its subsidiary, Vital Processing Services, LLC, in merchant data processing activities, pursuant § 225.25(b)(7) of the Board's Regulation Y. Visa U.S.A. will be the coventurer with the remaining 50 percent ownership. The geographic scope of this is activity is throughout the United States, Puerto Rico, Canada, and Mexico.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CNB Bancshares, Inc., Evansville, Indiana, to engage *de novo* through its subsidiary, Citizens Trust Company of Indiana, N.A., Evansville, Indiana, in functions or activities that may be performed by a trust company (including activities of a fiduciary, agency or custodial nature), pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25538 Filed 10–13–95; 8:45 am]

BILLING CODE 6210–01–F

Vernon H. Warren; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 30, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Vernon H. Warren, Albany, Georgia; to retain a total of 12.67 percent of the voting shares of First State Corporation, Albany, Georgia, and thereby indirectly retain First State Bank & Trust Company, Albany, Georgia, and First State Bank & Trust Company, Cordele, Georgia.

Board of Governors of the Federal Reserve System, October 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25537 Filed 10–13–95; 8:45 am]

BILLING CODE 6210–01–F

SouthTrust Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

SouthTrust Corporation, Birmingham, Alabama (Notificant), has given notice 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 engage *de novo* through its subsidiary, SouthTrust Securities, Inc., Birmingham, Alabama, in providing investment advisory services, pursuant to § 225.25(b)(4) of Regulation Y (12 CFR 225.25(b)(4)). Notificant also proposes to engage in the following activities which previously have been determined by the Board by Order to be closely related to banking: (1) acting as agent, in the private placement of all types of securities; and (2) acting as a riskless principal in the purchase and sale of all types of securities on the order of investors. Notificant proposes to engage in the proposed activities nationwide.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity ''which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.'' 12 U.S.C. 1843(c)(8).

Notificant maintains that the Board previously has determined that the proposed activities are ''so closely related to banking or managing or controlling banks as to be proper incident thereto.'' The Board previously has approved, by order, the proposed private placement and riskless principal activities, and Notificant has stated that it will conduct the proposed activities using the same methods and subject to the prudential limitations established by the Board in its previous orders. *See J.P. Morgan & Co. Incorporated*, 76 Federal Reserve Bulletin 26 (1990); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989).

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 in order to seek the views of interested persons on the issues presented by the notice, 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 October 27, 1995. Any request for a hearing on this proposal must, as required by section 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. The notice may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, October 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25673 Filed 10–13–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senior Executive Service; Performance Review Board Members

Title 5, U.S. Code, Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board members be published in the Federal Register.

Dated: September 29, 1995.

Eugene Kinlow,

Acting Assistant Secretary for Personnel Administration.

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

William D. Adams
Michele Applegate
Bernard Arons
Thomas A. Ault
Wendy Baldwin, Ph.D.
Lyle W. Bivens, Ph.D.
Clarence J. Boone
Claire V. Broome, M.D.
Fernando Burbano
George Buzzard
Ronald H. Carlson
Ron Chesemore
Naomi Churchill
Elizabeth Cusick
Patricia Dalton
Diann Dawson
Gale A. Drapala
Florence B. Fiori, Dr. Ph.H.
Helene G. Gayle, M.D., M.P.H.
Ronald G. Geller, Ph.D.
Eric P. Goosby, M.D.
Michael M. Gottesman, M.D.
Richard J. Greene, M.D., Ph.D.
Robert Harris
Robert H. Harry, D.D.S.
Ileana Herrell
Richard J. Hodes, M.D.
Sharon Smith Holston
James M. Hughes, M.D.
Arthur C. Jackson
Richard J. Jackson
Walter L. Jackson
Thomas M. Kickham
Ruth L. Kirschstein
Claude Lenfant, M.D.
Arthur S. Levine, M.D.
Michel E. Lincoln
Merle G. McPherson, M.D.
John D. Mahoney
Michael Mangano
James S. Marks, M.D., M.P.H.
Naomi B. Marr
Steven A. Pelovitz
Vivian W. Pinn, M.D.
Louise Ramm, Ph.D.
Luana Reyes
Sally K. Richardson
William A. Robinson, M.D.
Linda Rosenstock, M.D., M.P.H.
Laura S. Rosenthal
Linda A. Ruiz
Marla E. Salmon, Sc.D.
Ruth D. Sanchez-Way, Ph.D.
Paul M. Schwab
William Shultz
Clay E. Simpson, Ph.D.
Allen M. Spiegel, M.D.
Robert O. Valdez
Judith N. Wasserheit, M.D.
Michael Zimmerman

[FR Doc. 95–25412 Filed 10–13–95; 8:45 am]

BILLING CODE 4150–04–M

Agency for Toxic Substances and Disease Registry

[ATSDR–100]

Availability of Final Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of 10 final toxicological profiles on unregulated hazardous substances prepared by ATSDR for the Department of Defense.

FOR FURTHER INFORMATION CONTACT: Ms. Kim E. Jenkins, Agency for Toxic Substances and Disease Registry, Division of Toxicology, 1600 Clifton Road, NE., Mailstop E–29, Atlanta, Georgia 30333, telephone (404) 639–6357.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99–499) amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) or CERCLA. Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of Health and Human Services of not less than 25 of the most commonly found, unregulated hazardous substances at defense facilities. Each profile or technical report includes an examination, summary and interpretation of available toxicological information and epidemiological evaluations. This information and these data are used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles or technical reports include a determination of whether adequate information on the health effects of each substance is available or under development. When adequate information is not available, in cooperation with the National Toxicology Program (NTP), ATSDR may plan a program of research designed to determine these health effects.

Notice of the availability of 10 new draft toxicological profiles and 1 technical report for public review and comment was published in the Federal Register on September 1, 1993, (58 FR 46196), with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of each comment period, chemical-specific comments were addressed, and where appropriate, changes were incorporated into each profile.

The public comments, the classification of and response to those comments, and other data submitted in response to the Federal Register notice bear the docket control number ATSDR–71. This material is available for public inspection at the Division of Toxicology, Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays.

Availability

This notice announces the availability of the first 10 final toxicological profiles for the Department of Defense. The draft technical report previously released for public comment has been developed into a toxicological profile that will be released with the next set of profiles for the Department of Defense. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone 1–800–553–6847. There is a charge for these profiles as determined by NTIS.

Toxicological profile	NTIS order No.	CAS No.
1. Automotive Gasoline	PB95–264206	8006–61–9.
2. Diethyl Phthalate	PB95–264214	84–66–2.
3. Fuel Oils	PB95–264222	
Fuel Oil No. 1 (Kerosene)		8008–20–6.
Fuel Oil No. 1-D (Diesel Fuel No. 1)		No CAS #.
Fuel Oil No. 2 (Gas Oil)		68476–30–2.
Fuel Oil No. 2-D (Diesel Fuel No. 2)		68476–34–6.
Fuel Oil No. 4 (Residual Fuel)		68476–31–3.
Fuel Oil UNSP		No CAS #.
4. Jet Fuels JP–4	PB95–264230	50815–00–4.
Jet Fuels JP–7	No CAS #.	
5. Otto Fuel II and Its Components	PB95–264248	106602–80–6.
Propylene Glycol Dinitrate		6423–43–4.
2-Nitrodiphenylamine		119–75–5.
Dibutyl Sebacate		109–43–3.
6. RDX	PB95–264255	121–82–4.
7. Stoddard Solvent	PB95–264263	8052–41–3.
8. Tetryl	PB95–264271	479–45–8.
9. 1,3-Dinitrobenzene	PB95–264289	99–65–0.
1,3,5-Trinitrobenzene		99–35–4.
10. 2,4,6-Trinitrotoluene	PB95–264297	118–96–7.

Dated: October 10, 1995.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 95–25572 Filed 10–13–95; 8:45 am]

BILLING CODE 4163–70–P

Food and Drug Administration

[Docket No. 95N–0253J]

Analysis Regarding the Food and Drug Administration's Jurisdiction Over Nicotine-Containing Cigarettes and Smokeless Tobacco Products; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 2, 1996, the comment period for the notice that appeared in the Federal Register of August 11, 1995 (60 FR 41453). The document contained FDA's factual and legal analysis regarding nicotine in cigarettes and smokeless tobacco products and whether the products are drug delivery devices within the meaning of the Federal Food, Drug, and Cosmetic Act (the act). As a result of this extension, the agency is providing a comment period of more than 140 days on the notice, and a comment period of more than 90 days from the date that additional documents that the agency considered were placed on display.

DATES: Comments by January 2, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 11, 1995 (60 FR 41453), FDA issued a notice describing the results of FDA's extensive investigation of cigarettes and smokeless tobacco products. The notice contained a comprehensive analysis and detailed documentation regarding the agency's jurisdiction over such products. The results of the investigation and analysis supported a finding, at that time, that nicotine in cigarettes and smokeless tobacco products is a drug, and that these products are drug delivery devices within the meaning of the act. In issuing the notice, FDA also recognized the unique importance of the jurisdictional issue as well as the factual justification for any proposed rule concerning cigarettes and smokeless tobacco products and invited comment.

On August 16, 1995, all documents referred to in the notice were placed on public display at the Dockets Management Branch, except for a small number of documents identified as confidential and articles for which publicly available journal citations were given in the notice. The notice and the documents cited by the agency in support of the notice (except for those documents that the agency identified as confidential) have been publicly available since August 16, 1995. On September 29, 1995, FDA placed additional documents that the agency considered on public display at the Dockets Management Branch. Accordingly, FDA is extending the comment period to January 2, 1996. A deadline of December 28, 1995, would provide a comment period of 90 days from the date on which the agency placed additional documents that the agency considered on public display. Because December 28, 1995, is a Thursday and January 1, 1996, is a holiday, the agency does not anticipate that it will be able to undertake significant work on the comments until January 2, 1996. Therefore, the agency is extending the comment period until January 2, 1996.

Because of the public health importance of this matter, the agency advises that it does not anticipate granting further extensions of the comment period beyond January 2,

1996. In order to assure consideration by the agency, comments are to be filed by that date.

Elsewhere in this issue of the Federal Register, the agency is publishing two graphs that were inadvertently omitted from the appendix to the notice. The appendix did not appear in the Federal Register on August 11, 1995, but can be purchased from the Government Printing Office (stock number 017012003737).

Interested persons may, on or before December 28, 1995, submit to the Dockets Management Branch (address above) written comments regarding this notice. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–25671 Filed 10–12–95; 1:38 pm]

BILLING CODE 4160–01–F

[Docket No. 95N–0253J]

Analysis Regarding the Food and Drug Administration's Jurisdiction Over Nicotine-Containing Cigarettes and Smokeless Tobacco Products; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document entitled ''Nicotine In Cigarettes And Smokeless Tobacco Products Is A Drug And These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act'' that appeared in the Federal Register of August 11, 1994 (60 FR 41453). The document was published with some typograpical errors. In addition, the document announced the availability of appendices. The agency has discovered that it inadvertently omitted two diagrams from the appendices. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION: In FR Doc. 95–20052, appearing on page 41453 in the Federal Register of Friday, August 11, 1995, the following corrections are made:

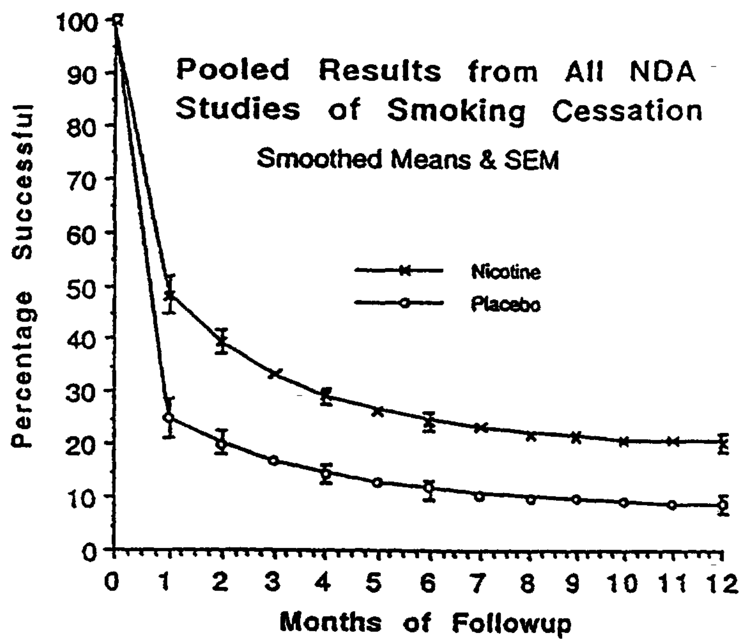
1. On page 41453, in the 2d column, under the **ADDRESSES** caption, in line 7, the word ''the'' is added before the word ''Superintendent''; and in the 3d column, under the **SUPPLEMENTARY INFORMATION** caption, in the 2d full paragraph, in line 3, the word ''of'' is corrected to read ''on''.

2. In the appendices which were made available by the agency through the Superintendent of Documents, Government Printing Office, on pages A–80 and A–81 the following illustrations are added:

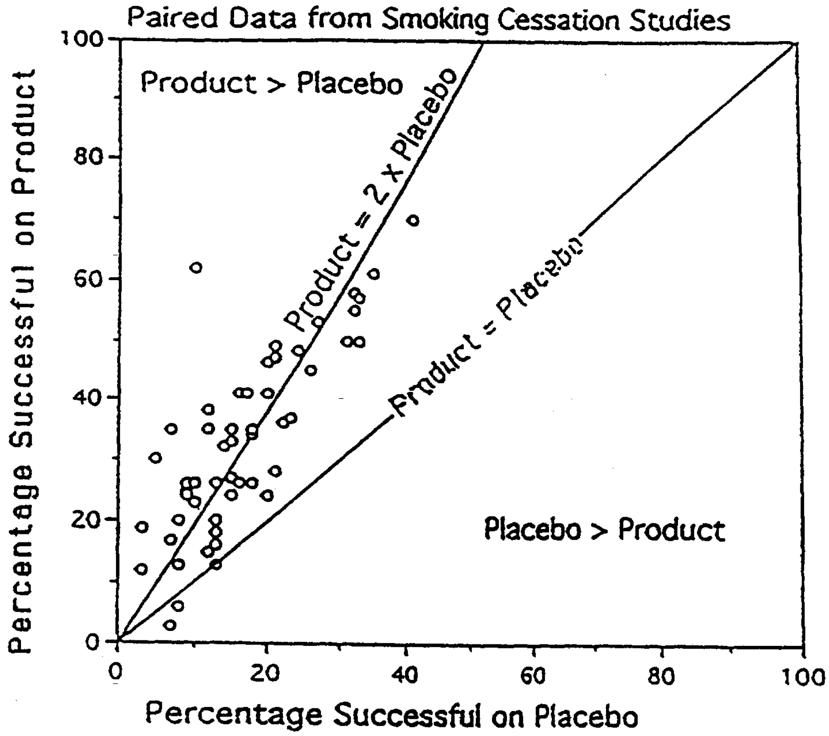
BILLING CODE 4160–01–F

A-80

Plotting the data :



There appears to be a pattern in the data, such that the quit rate in the nicotine group is about twice the quit rate in the placebo group. Plotting the quit rates for each time point in each study in this fashion (placebo on x-axis, nicotine on y-axis):



Discussion

The consistency of NDA data shows the difficulty of smoking cessation, even for committed adults who decide to seek medical help in quitting. The data also reveal the widespread importance of nicotine's CNS effects in smoking by illustrating the efficacy of nicotine delivery systems (including "tasteless" transdermal systems) in helping people reduce or quit smoking--at least while using smoking cessation products. For this population of male and female, pack-a-day, typical smokers aged 20-50, nicotine replacement products reliably improved their ability both to stop smoking and to remain abstinent from cigarettes. Smokers using products that delivered about 14-24 mg/day of nicotine had an initial quit rate of about

Dated: October 11, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–25669 Filed 10–12–95; 1:38 pm]

BILLING CODE 4160–01–C

[Docket No. 95D–0283]

Deciding When To Submit a 510(k) for a Change to an Existing Device; Draft Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an August 1, 1995, draft guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' The draft guidance includes a flowchart model that can be used by manufacturers in their decisionmaking to analyze whether certain changes in a device could significantly affect the safety or effectiveness of the device and, therefore, require submission of a new 510(k). The draft guidance is intended to provide direction to manufacturers, specification developers, and distributors of devices who intend to modify their device and are in the process of deciding whether the modification requires a new premarket notification submission (510(k)).

DATES: Written comments by December 15, 1995.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device'' to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597 (outside MD 1–800–638–2041). Send two self-addressed adhesive labels to assist that office in processing your requests, or FAX your request to 301–443–8818. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Copies of a facsimile of the draft guidance, are available from the Division of Small Manufacturers Assistance (DSMA) Facts on Demand, Center for Devices and Radiological Health (CDRH), 1–800–899–0381. Copies of the draft guidance may also be obtained from the electronic docket administered by DSMA and are available to anyone with a video terminal or personal computer (1–800–252–1366).

FOR FURTHER INFORMATION CONTACT: Harvey Rudolph, Center for Devices and Radiological Health (HFZ–100), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–2444.

SUPPLEMENTARY INFORMATION:

I. Background

On April 8, 1994, FDA circulated for comment the first draft guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' The draft guidance was intended to provide direction to manufacturers on deciding when to submit a new 510(k) for changes to an existing device. The April 8, 1994, draft guidance was the subject of a May 12, 1994, FDA teleconference. The April 8, 1994, draft guidance was also the subject of discussion at several trade and industry association meetings.

FDA received over 60 comments regarding the April 8, 1994, draft guidance. Based on the comments received, FDA developed an August 1, 1995, second draft guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' FDA is now announcing the availability of the August 1, 1995, draft guidance to elicit further public comment.

II. When to Submit a 510(k) for a Change to an Existing Device

Whenever a manufacturer of a legally marketed device decides to change the device's design or labeling, it is faced with a decision on whether to submit a 510(k). Section 807.81(a)(3) (21 CFR 807.81(a)(3)) states that a premarket notification is required for changes to a currently marketed device that ''could significantly affect the safety or effectiveness of the device.'' FDA staff have tried to define this phrase with greater accuracy, as well as the criteria contained in 21 CFR 807.81(a)(3)(i) and (ii) which are expressed in general terms using adjectives such as ''major'' and ''significant,'' because they can sometimes lead to subjective interpretation.

FDA's previous attempts to develop guidance in this area have not been entirely successful, and manufacturers have frequently expressed the need for more definitive guidance. FDA has now developed such guidance and is making it available as a draft for public comment.

III. The Draft Guidance

The draft guidance has been developed to provide aid to manufacturers, specification developers, and distributors of class I, class II, or preamendment (devices in commercial distribution before May 28, 1976) class III devices for which premarket approval has not yet been required under section 515(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(b)) who intend to modify their device and are in the process of deciding whether the modification meets the regulatory threshold for submitting a new 510(k). Whenever possible, the draft guidance attempts to incorporate existing guidance and policy regarding when a 510(k) is necessary for modifications to a currently legally-marketed device.

The draft guidance is not intended to supplant existing definitive guidance for modifications to specific devices, i.e., for daily wear contact lenses. Moreover, the draft guidance is not intended to apply to device kits, nor is it intended to apply to combination products, such as drug/device or biologic/device combinations. The draft guidance is also not intended to address the need for submitting a 510(k) by refurbishers or remanufacturers of devices. FDA intends to develop additional guidance specific to these situations.

The types of modifications addressed in the draft guidance include labeling changes, technology or performance specifications changes, and materials changes. The basis for comparison of any changed device is the device described by a cleared 510(k) or a legally marketed pre-1976 device. That is, manufacturers may make a number of changes without having to submit a 510(k), but each time they make a change, the device they should compare it to is their most recently cleared device or their pre-1976 device, not the current legally marketed device. In effect, manufacturers need to submit a new 510(k) only when the sum of the incremental changes, taken together as though they were in fact one change, exceeds the § 807.81(a)(3) threshold, ''could significantly affect the safety or effectiveness of the device.''

According to the draft guidance, because many simultaneous changes may be considered in the evolution of device design, each type of change should be assessed separately and, when any one change leads the manufacturer to decide to submit a 510(k), then a 510(k) incorporating all the current changes and comparing the new device to the originally cleared device, or one marketed prior to May 28, 1976, should be submitted. The new 510(k), once cleared, would form the basis of comparison for the next sequence of changes.

The draft guidance consists of a flowchart model to help manufacturers through the logic scheme necessary to arrive at a decision on when to submit a 510(k) for a change to an existing device. The flowchart includes the following three logical breakouts of changes that might be made to a device: Labeling changes, technology or performance specifications changes, and materials changes. To use the model, the questions posed in the flowchart should be answered until the 510(k) holder is directed to consider submitting a 510(k), document the decisionmaking, or notify the agency of the change being effected. The last option occurs for the addition of a contraindication and the necessary documentation would constitute an administrative addition to the 510(k) currently on file.

When contemplating changes to a device, manufacturers should use the flowchart for each individual type of proposed change, e.g., performance specification change, material change, etc. If any one of the changes results in a manufacturer's decision to submit a 510(k), then the 510(k) should be submitted and should incorporate all of the intended changes, as well as a comparison to the originally cleared device described by the 510(k) currently on file with FDA. If a manufacturer's consideration of all proposed changes results in a decision merely to document the decisionmaking, it should document the application of the model along with the necessary records of the validation of changes to the device. In those circumstances where the proposed change is not addressed in the flowchart or in a device-specific guidance document, manufacturers are encouraged to contact the Office of Device Evaluation in CDRH to find out whether other, specific guidance exists or if additional help is available.

IV. Significance of a Guidance

Guidances have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidances to state procedures or standards of general applicability that are not legal requirements, but that are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Therefore, the draft guidance is not being issued under the authority of current § 10.90(b), and it does not create or confer any rights, privileges, or benefits for or on any person, nor does it operate to bind FDA or device manufacturers in any way.

V. Requests for Comments

Interested persons may, on or before December 15, 1995, submit to the Dockets Management Branch (address above) written comments regarding the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered in determining whether to amend the current draft guidance document.

Dated: October 2, 1995.

Joseph A. Levitt,

Deputy Director for Regulations policy, Center for Devices and Radiological Health.

[FR Doc. 95–25502 Filed 10–13–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[OACT–049–N]

RIN 0938–AH08

Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1996

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1996 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formulae to be used to determine these amounts.

The inpatient hospital deductible will be $736. The daily coinsurance amounts will be: (a) $184 for the 61st through 90th days of hospitalization in a benefit period; (b) $368 for lifetime reserve days; and (c) $92 for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period.

EFFECTIVE DATE: This notice is effective on January 1, 1996.

FOR FURTHER INFORMATION CONTACT: John Wandishin, (410) 786–6389. For case-mix analysis only: Gregory J. Savord, (410) 786–6384.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1813 of the Social Security Act (the Act) provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires us to determine and publish between September 1 and September 15 of each year the amount of the inpatient hospital deductible and the hospital and extended care services coinsurance amounts applicable for services furnished in the following calendar year.

II. Computing the Inpatient Hospital Deductible for 1996

Section 1813(b) of the Act prescribes the method for computing the amount of the inpatient hospital deductible. The inpatient hospital deductible is an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by our best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B) of the Act). This estimate is used for updating the payment rates to hospitals for discharges in the fiscal year that begins on October 1 of the same preceding calendar year and adjusted to reflect real case mix. The adjustment to reflect real case mix is determined on the basis of the most recent case mix data available. The amount determined under this formula is rounded to the nearest multiple of $4 (or, if midway between two multiples of $4, to the next higher multiple of $4).

For fiscal year 1996, section 1886(b)(3)(B)(i)(XI) of the Act provides that the applicable percentage increase for hospitals in all areas is the market basket percentage increase minus 2.0 percent. Section 1886(b)(3)(B)(ii)(V) of the Act provides that, for fiscal year 1996, the otherwise applicable rate-of-increase percentages (the market basket percentage increase) for hospitals that are excluded from the prospective payment system are reduced by the lesser of 1 percentage point or the percentage point difference between 10 percent and the percentage by which the hospital's allowable operating costs of inpatient hospital services for cost reporting periods beginning in fiscal year 1990 exceeds the hospital's target amount. Hospitals or distinct part hospital units with fiscal year 1990 operating costs exceeding target amounts by 10 percent or more receive the market basket index percentage. The market basket percentage increases for fiscal year 1996 are 3.5 percent for prospective payment system hospitals and 3.4 percent for hospitals excluded from the prospective payment system, as announced in the Federal Register on September 1, 1995 (60 FR 45778). Therefore, the percentage increases for Medicare prospective payment rates are 1.5 percent for all hospitals. The average payment percentage increase for hospitals excluded from the prospective payment system is 2.84 percent. Thus, weighting these percentages in accordance with payment volume, our best estimate of the payment-weighted average of the increases in the payment rates for fiscal year 1996 is 1.65 percent.

To develop the adjustment for real case mix, an average case mix was first calculated for each hospital that reflects the relative costliness of that hospital's mix of cases compared to that of other hospitals. We then computed the increase in average case mix for hospitals paid under the Medicare prospective payment system in fiscal year 1995 compared to fiscal year 1994. (Hospitals excluded from the prospective payment system were excluded from this calculation since their payments are based on reasonable costs and are affected only by real increases in case mix.) We used bills from prospective payment hospitals received in HCFA as of July 1995. These bills represent a total of about 8.0 million discharges for fiscal year 1995 and provide the most recent case mix data available at this time. Based on these bills, the increase in average case mix in fiscal year 1995 is 1.1 percent. Based on past experience, we expect overall case mix to increase to 1.4 percent as the year progresses and more fiscal year 1995 data become available.

Section 1813 of the Act requires that the inpatient hospital deductible be increased only by that portion of the case mix increase that is determined to be real. We estimate that the increase in real case mix is about 1 percent. Since real case mix had been assumed to be increasing at about 1 percent per year in prior years, we expect a return to this trend.

Thus, the estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates is 1.65 percent, and the real case mix adjustment factor for the deductible is 1 percent. Therefore, under the statutory formula, the inpatient hospital deductible for services furnished in calendar year 1996 is $736. This deductible amount is determined by multiplying $716 (the inpatient hospital deductible for 1995) by the payment rate increase of 1.0165 multiplied by the increase in real case mix of 1.01 which equals $735.09 and is rounded to $736.

III. Computing the Inpatient Hospital and Extended Care Services Coinsurance Amounts for 1996

The coinsurance amounts provided for in section 1813 of the Act are defined as fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year. Thus, the increase in the deductible generates increases in the coinsurance amounts. For inpatient hospital and extended care services furnished in 1996, in accordance with the fixed percentages defined in the law, the daily coinsurance for the 61st through 90th days of hospitalization in a benefit period will be $184 (¼ of the inpatient hospital deductible); the daily coinsurance for lifetime reserve days will be $368 (½ of the inpatient hospital deductible); and the daily coinsurance for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period will be $92 (⅛ of the inpatient hospital deductible).

IV. Cost to Beneficiaries

We estimate that in 1996 there will be about 9.2 million deductibles paid at $736 each, about 3.4 million days subject to coinsurance at $184 per day (for hospital days 61 through 90), about 1.5 million lifetime reserve days subject to coinsurance at $368 per day, and about 21.9 million extended care days subject to coinsurance at $92 per day. Similarly, we estimate that in 1995 there will be about 8.9 million deductibles paid at $716 each, about 3.3 million days subject to coinsurance at $179 per day (for hospital days 61 through 90), about 1.5 million lifetime reserve days subject to coinsurance at $358 per day, and about 21.2 million extended care days subject to coinsurance at $89.50 per day. Therefore, the estimated total increase in cost to beneficiaries is about $570 million (rounded to the nearest $10 million), due to (1) the increase in the deductible and coinsurance amounts and (2) the change in the number of deductibles and daily coinsurance amounts paid.

V. Impact Statement

This notice merely announces amounts required by legislation. This notice is not a proposed rule or a final rule issued after a proposal and does not alter any regulation or policy. Therefore, we have determined, and certify, that no analyses are required under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601 through 612), or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 26, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: September 29, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–25518 Filed 10–13–95; 8:45 am]

BILLING CODE 4120–01–P

[OACT–050–N]

RIN 0938–AH07

Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1996

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: As required by section 1839 of the Social Security Act, this notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for 1996. It also announces the monthly SMI premium rate to be paid by all enrollees during 1996. The monthly actuarial rates for 1996 are $84.90 for aged enrollees and $105.10 for disabled enrollees. The monthly SMI premium rate for 1996 is $42.50.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (410) 786–6396.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Supplementary Medical Insurance (SMI) program is the voluntary Medicare Part B program that pays all or part of the costs for physicians' services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (Medicare Part A). The SMI program is available to individuals who are entitled to hospital insurance and to U.S. residents who have attained age 65 and are citizens, or aliens who were lawfully admitted for permanent residence and have resided in the United States for 5 consecutive years. This program requires enrollment and payment of monthly premiums, as provided in 42 CFR part 407, subpart B, and part 408, respectively. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal government.

The Secretary of Health and Human Services is required by section 1839 of the Social Security Act (the Act) to issue two annual notices relating to the SMI program.

One notice announces two amounts that, according to actuarial estimates, will equal respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the year beginning the following January. These amounts are called ''monthly actuarial rates.''

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the year beginning the following January. (Although the costs to the program per disabled enrollee are different than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of the Social Security Amendments of 1972 (Public Law 92–603), enacted on October 30, 1972, the premium rate, which was determined on a fiscal year basis, was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits.

However, the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Public Law 97–248), enacted on September 3, 1982, suspended this premium determination process. Section 124 of TEFRA changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). Section 606 of the Social Security Amendments of 1983 (Public Law 98–21), enacted on April 20, 1983; section 2302 of the Deficit Reduction Act of 1984 (DRA) (Public Law 98–369), enacted on July 18, 1984; section 9313 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 1985) (Public Law 99–272), enacted on April 7, 1986; section 4080 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) (Public Law 100–203), enacted on December 22, 1987; and section 6301 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) (Public Law 101–239), enacted on December 19, 1989, extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees. This extension expired at the end of 1990.

The premium rate for 1991 through 1995 was legislated by section 1839(e)(1)(B) of the Act, as added by section 4301 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) (Public Law 101–508), enacted on November 5, 1990. In January 1996, the premium determination basis would have reverted to the method established by the 1972 Social Security Act Amendments. However, section 13571 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (Public Law 103–66), enacted on August 10, 1993, changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees for 1996 through 1998. In January 1999, the premium determination basis will revert to the method established by the 1972 Social Security Act Amendments, except on a calendar year basis.

As determined according to section 1839(a)(3) of the Act, the premium rate for 1996 is $42.50. This premium rate is $3.60 lower than the $46.10 premium rate for 1995. As stated above, the premium rate for 1995 was legislated by OBRA 1990. The legislated premium rate for 1995 was determined to be 50 percent of the projected monthly actuarial rate for aged enrollees for 1995 based on the projections at the time of enactment. In the intervening years before the announcement of the 1995 actuarial rates, on December 1, 1994, the growth of program costs had slowed from the projections that were used to establish the legislated rate for 1995. Consequently, the actuarial rate for aged enrollees for 1995 that was announced on December 1, 1994 was lower than the actuarial rate projected at the time of the enactment of OBRA 1990. As a result, the 1995 premium rate was actually 63.1 percent of the announced 1995 actuarial rate for aged enrollees (that is, 31.5 percent of program costs for aged enrollees). Although program costs are projected to increase in 1996 over 1995, the premium rate will be 50 percent of the 1996 actuarial rate for aged enrollees instead of 63.1 percent as in 1995. It is the fact that the premium rate will cover a lower percentage of program costs in 1996 that results in a lower premium rate in spite of increasing program costs.

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act, as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360), enacted on July 1, 1988. (The Medicare Catastrophic Coverage Repeal Act of 1989 (Public Law 101–234), enacted on December 13, 1989, did not repeal the revisions to section 1839(f) made by Public Law 100–360.) Section 1839(f) provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums deducted from these benefit payments, the premium increase will be reduced to avoid causing a decrease in the individual's net monthly payment. This occurs if the increase in the individual's social security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits. (A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December, but has the December's SMI premium deducted from it.) (This change, in effect, perpetuates former amendments that prohibited SMI premium increases from reducing an individual's benefits in years in which the dollar amount of the individual's cost-of-living increase in benefits was not at least as great as the dollar amount of the individual's SMI premium increase.)

Generally, if a beneficiary qualifies for this protection (that is, the beneficiary must have been in current payment status for November and December of the previous year), the reduced premium for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding

November's monthly benefits, after the deduction of the SMI premium for December; or

(2) The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f) of the Act, it will not be changed during the year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in the SMI program late or have reenrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. That increase is a percentage of the premium and is based on the new premium rate before any reductions under section 1839(f) are made.

II. Notice of Monthly Actuarial Rates and Monthly Premium Rate

The monthly actuarial rates applicable for 1996 are $84.90 for enrollees age 65 and over, and $105.10 for disabled enrollees under age 65. Section III of this notice gives the actuarial assumptions and bases from which these rates are derived. The monthly premium rate will be $42.50 during 1996.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1996

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

Under the law, the starting point for determining the monthly premium is the amount that would be necessary to finance the SMI program on an incurred basis; that is, the amount of income that would be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the year is added to the trust fund and used when needed.

The rates are established prospectively and are, therefore, subject to projection error. Additionally, legislation enacted after the financing has been established but, effective for the period for which the financing has been set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of variation between actual and projected costs in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 1994 and 1995.

TABLE 1.—ESTIMATED ACTUARIAL STATUS OF THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND AS OF THE END OF THE FINANCING PERIOD

[In billions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
Dec. 31, 1994	$19.422	$4.049	$15.373
Dec. 31, 1995	18.531	4.876	13.655

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate for enrollees age 65 and older is one-half of the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of variation between actual and projected costs and to amortize any surplus or unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for 1996 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1996, and June 30, 1997, by type of service. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July annual fee screen update used for benefits before the passage of section 2306(b) of Public Law 98–369. The values for the 12-month period ending June 30, 1993 were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1993, through December 31, 1996, are shown in Table 3.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for 1996 is $87.05. The monthly actuarial rate of $84.90 provides an adjustment of −$2.28 for interest earnings and $0.13 for a contingency margin. Based on current estimates, it appears that the assets are sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of projection error. Thus, only a slight positive contingency margin is needed to maintain assets at an appropriate level.

An appropriate level for assets depends on numerous factors. The most important of these factors are: (1) The difference from prior years between the actual performance of the program and estimates made at the time financing was established, and (2) the expected relationship between incurred and cash expenditures. Ongoing analysis is made of the former as the trends in the differences vary over time.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement (before age 65) to disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to the projection for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected differently because of the different nature of services offered by the program. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for 1996 is $106.04. The monthly actuarial rate of $105.10 provides an adjustment of −$1.11 for interest earnings and $0.17 for a contingency margin. Based on current estimates, it appears that assets are sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, only a slight positive contingency margin is needed to maintain assets at an appropriate level.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it is appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as governed by the program's physician fee schedule that began implementation January 1, 1992. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined from a study on the average historical variation between actual and projected increases in the respective increase factors. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates would result in an excess of assets over liabilities of $13.696 billion by the end of December 1996. This amounts to 15.9 percent of the estimated total incurred expenditures for the following year. Assumptions that are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) produce a surplus of $0.268 billion by the end of December 1996, which amounts to 0.3 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates would result in a surplus of $26.240 billion by the end of December 1996, which amounts to 33.7 percent of the estimated total incurred expenditures for the following year.

E. Premium Rate

As determined by section 1839(a)(3) of the Act, the monthly premium rate for 1996, for both aged and disabled enrollees, is $42.50.

TABLE 2.—PROJECTION FACTORS[1]—12-MONTH PERIODS ENDING JUNE 30 OF 1993 THROUGH 1997

[In percent]

12-month period ending June 30	Physicians' services		Outpatient hospital services	Home health agency services[4]	Group practice prepayment plans	Independent lab services
	Fees[2]	Residual[3]				
Aged:						
1993	0.5	0.4	12.4	63.8	16.1	2.8
1994	2.7	3.0	7.4	4.2	15.5	−0.4
1995	4.4	4.8	15.1	15.0	17.7	1.6
1996	2.2	6.8	8.1	15.0	33.7	6.6
1997	−0.3	8.6	9.8	16.2	17.6	10.6
Disabled:						
1993	0.5	4.1	16.2	0.0	14.8	11.4
1994	2.7	3.7	1.7	0.0	−14.0	9.5
1995	4.4	2.9	18.9	0.0	11.6	1.3
1996	2.2	4.7	15.4	0.0	43.2	4.0
1997	−0.3	6.7	14.6	0.0	13.5	9.4

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Since July 1, 1981, home health agency services have been almost exclusively provided by the Medicare hospital insurance (HI) program. However, for those SMI enrollees not entitled to HI, the coverage of these services is provided by the SMI program. Since all SMI disabled enrollees are entitled to HI, their coverage of these services is provided by the HI program.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER—FINANCING PERIODS ENDING DECEMBER 31, 1993 THROUGH DECEMBER 31, 1996

	Financing periods			
	CY 1993	CY 1994	CY 1995	CY 1996
Covered services (at level recognized):				
Physicians' reasonable charges	$52.97	$57.04	$62.34	$67.74
Outpatient hospital and other institutions	17.28	19.25	21.44	23.36
Home health agencies	0.15	0.16	0.19	0.21
Group practice prepayment plans	8.13	9.49	11.99	14.92
Independent lab	2.43	2.38	2.43	2.64
Total services	80.96	88.32	98.39	108.87
Cost-sharing:				
Deductible	−3.68	−3.70	−3.73	−3.75

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER—FINANCING PERIODS ENDING DECEMBER 31, 1993 THROUGH DECEMBER 31, 1996—Continued

	Financing periods			
	CY 1993	CY 1994	CY 1995	CY 1996
Coinsurance	−14.67	−16.13	−18.09	−20.12
Total benefits	62.61	68.49	76.57	85.00
Administrative expenses	1.91	1.95	1.99	2.05
Incurred expenditures	64.52	70.44	78.56	87.05
Value of interest	−2.45	−2.49	−2.05	−2.28
Contingency margin for projection error and to amortize the surplus or deficit	8.43	−6.15	−3.41	0.13
Monthly actuarial rate	70.50	61.80	73.10	84.90

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES—FINANCING PERIODS ENDING DECEMBER 31, 1993 THROUGH DECEMBER 31, 1996

	Financing periods			
	CY 1993	CY 1994	CY 1995	CY 1996
Covered services (at level recognized):				
Physicians' reasonable charges	$61.64	$65.31	$69.84	$74.34
Outpatient hospital and other institutions	40.38	42.66	46.89	51.47
Home health agencies	0.00	0.00	0.00	0.00
Group practice prepayment plans	1.92	1.88	2.41	3.03
Independent lab	2.86	3.00	3.11	3.31
Total services	106.80	112.85	122.25	132.15
Cost-sharing:				
Deductible	−3.47	−3.50	−3.53	−3.55
Coinsurance	−20.02	−21.19	−23.02	−24.95
Total benefits	83.31	88.16	95.70	103.65
Administrative expenses	2.68	2.42	2.40	2.39
Incurred expenditures	85.99	90.58	98.10	106.04
Value of interest	−2.33	−1.62	−0.93	−2.05
Contingency margin for projection error and to amortize the surplus or deficit	−0.76	−12.86	8.63	1.11
Monthly actuarial rate	82.90	76.10	105.80	105.10

TABLE 5.—ACTUARIAL STATUS OF THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND—UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1996

	This projection			Low cost projection			High cost projection		
	12-Month period ending June 30,			12-Month period ending June 30,			12-Month period ending June 30,		
	1995	1996	1997	1995	1996	1997	1995	1996	1997
Projection factors (in percent):									
Physician fees: [1]									
Aged	4.4	2.2	−0.3	4.2	1.0	−2.1	4.6	3.4	1.5
Disabled	4.4	2.2	−0.3	4.2	1.0	−2.1	4.6	3.4	1.5
Utilization of physician services: [2]									
Aged	4.8	6.8	8.6	3.0	4.6	6.1	6.7	9.0	11.0
Disabled	2.9	4.7	6.7	0.0	1.8	3.6	5.8	7.7	9.8
Outpatient hospital services per enrollee:									
Aged	15.1	8.1	9.8	10.7	3.5	4.9	19.5	12.7	14.8
Disabled	18.9	15.4	14.6	13.6	9.9	9.0	24.3	21.0	20.3
	As of December 31,			As of December 31,			As of December 31,		
	1994	1995	1996	1994	1995	1996	1994	1995	1996
Actuarial status (in billions):									
Assets	$19.422	$18.531	$19.327	$19.422	$22.020	$29.345	$19.422	$14.854	$8.499

	As of December 31,			As of December 31,			As of December 31,		
	1994	1995	1996	1994	1995	1996	1994	1995	1996
Liabilities	4.049	4.876	5.631	1.886	2.567	3.105	6.245	7.229	8.231
Assets less liabilities	15.373	13.655	13.696	17.536	19.453	26.240	13.177	7.625	0.268
Ratio of assets less liabilities to expenditures (in percent) [3]	22.2	17.6	15.9	26.7	27.2	33.7	18.1	9.0	0.3

[1] As recognized for payment under the program.
[2] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[3] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

IV. Cost to Beneficiaries

The monthly SMI premium rate of $42.50 for all enrollees during 1996 is 7.8 percent lower than the $46.10 monthly premium amount for the previous financing period. The estimated savings of this reduction from the current premium to the approximately 36 million SMI enrollees will be about $1.565 billion for 1996.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r)

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: September 15, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: September 27, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–25519 Filed 10–13–95; 8:45 am]

BILLING CODE 4120–01–P

[OACT–051–N]

RIN 0938–AH06

Medicare Program; Part A Premium for 1996 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the hospital insurance premium for calendar year 1996 under Medicare's hospital insurance program (Part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The monthly Medicare Part A premium for the 12 months beginning January 1, 1996 for these individuals is $289. The reduced premium for certain other individuals as described in this notice is $188. Section 1818(d) of the Social Security Act specifies the method to be used to determine these amounts.

EFFECTIVE DATE: This notice is effective on January 1, 1996.

FOR FURTHER INFORMATION CONTACT: John Wandishin, (410) 786–6389.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare hospital insurance program (Medicare Part A), subject to payment of a monthly premium, of certain persons who are age 65 and older, uninsured for social security or railroad retirement benefits, and do not otherwise meet the requirements for entitlement to Medicare Part A. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d) of the Act requires us to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services performed and for related administrative costs incurred in the following year with respect to individuals age 65 and over who will be entitled to benefits under Medicare Part A. We must then, during September of each year, determine the monthly actuarial rate (the per capita amount estimated above divided by 12) and publish the dollar amount to be applicable for the monthly premium in the succeeding year. If the premium is not a multiple of $1, the premium is rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not of $1, it is rounded to the next highest $1). The 1995 premium under this method was $261 and was effective January 1995. (See 59 FR 61626, December 1, 1994.)

Section 1818(d)(2) of the Act requires us to determine and publish, during September of each calendar year, the amount of the monthly premium for the following calendar year for persons who voluntarily enroll in Medicare Part A.

Section 1818A of the Act provides for voluntary enrollment in Medicare Part A, subject to payment of a monthly premium, of certain disabled individuals who have exhausted other entitlement. These individuals are those not now entitled but who have been entitled under section 226(b) of the Act, continue to have the disabling impairment upon which their entitlement was based, and whose entitlement ended solely because they had earnings that exceeded the substantial gainful activity amount (as defined in section 223(d)(4) of the Act).

Section 1818A(d)(2) of the Act specifies that the premium determined under section 1818(d)(2) of the Act for the aged will also apply to certain disabled individuals as described above.

In addition, section 1818(d) of the Act provides for a reduction in the monthly premium amount for certain voluntary enrollees. The reduction applies for individuals who are not eligible for social security or railroad retirement benefits but who:

- Had at least 30 quarters of coverage under title II of the Act;
- Were married and had been married for the previous 1-year period to an individual who had at least 30 quarters of coverage;
- Had been married to an individual for at least 1 year at the time of the individual's death and the individual had at least 30 quarters of coverage; or
- Are divorced from an individual who at the time of divorce had at least 30 quarters of coverage and the marriage lasted at least 10 years.

For calendar year 1996, section 1818(d)(4)(A) of the Act specifies that the monthly premium that these individuals will pay for calendar year 1996 will be equal to the monthly premium for aged voluntary enrollees reduced by 35 percent.

II. Premium Amount for 1996

Under the authority of sections 1818(d)(2) and 1818A(d)(2) of the Act, we have determined that the monthly Medicare Part A hospital insurance premium for the uninsured aged and for certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 1996 is $289.

The monthly premium for those individuals entitled to a 35 percent reduction in the monthly premium for the 12-month period beginning January 1, 1996 is $188.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Premium Rate

As discussed in section I of this notice, the monthly Medicare Part A premium for 1996 is equal to the estimated monthly actuarial rate for 1996 rounded to the nearest multiple of $1. The monthly actuarial rate is defined to be one-twelfth of the average per capita amount that the Secretary estimates will be paid from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in 1996 for individuals age 65 and over who will be entitled to benefits under the hospital insurance program. Thus, the number of individuals age 65 and over who will be entitled to hospital insurance benefits and the costs incurred on behalf of these beneficiaries must be projected to determine the premium rate.

The principal steps involved in projecting the future costs of the hospital insurance program are (a) establishing the present cost of services furnished to beneficiaries, by type of service, to serve as a projection base; (b) projecting increases in payment amounts for each of the various service types; and (c) projecting increases in administrative costs. Establishing historical Medicare Part A enrollment and projecting future enrollment, by type of beneficiary, is part of this process.

We have completed all of the above steps, basing our projections for 1996 on (a) current historical data and (b) projection assumptions under current law from the Midsession Review of the President's Fiscal Year 1996 Budget. It is estimated that in calendar year 1996, 32.496 million people age 65 and over will be entitled to Medicare Part A benefits (without premium payment), and that these individuals will, in 1996, incur $112.688 billion of benefits for services performed and related administrative costs. Thus, the estimated monthly average per capita amount is $288.98 and the monthly premium is $289. The monthly premium for those individuals eligible to pay this premium reduced by 35 percent is $188.

IV. Costs to Beneficiaries

The 1996 Medicare Part A premium is about 11 percent higher than the $261 monthly premium amount for the 12-month period beginning January 1, 1995.

We estimate that there will be, in calendar year 1996, approximately 304,000 enrollees who will voluntarily enroll in Medicare Part A by paying the full premium and who do not otherwise meet the requirements for entitlement. An additional 5,000 enrollees will be paying the reduced premium. The estimated overall effect of the changes in the premium will be a cost to these voluntary enrollees of about $100 million.

V. Impact Statement

This notice merely announces amounts required by statute. This notice is not a proposed rule or a final rule issued after a proposal, and it does not alter any regulation or policy. Therefore, we have determined, and certify, that no analyses are required under the Regulatory Flexibility Act (5 U.S.C 601 through 612) or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Sections 1818(d)(2) and 1818A(d)(2) of the Social Security Act (42 U.S.C. 1395i–2(d)(2) and 1395i–2a(d)(2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 26, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: September 29, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–25520 Filed 10–13–95; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of November 1995:

Name: National Advisory Council on Migrant Health

Date and Time: November 3–4, 1995, 8 a.m.

Place: Westchester Marriott Hotel, 670 White Plains Road, Tarrytown, New York, 914/631–2200.

The meeting is open to the public.

Agenda: The agenda includes a overview of Council general business activities and priorities; the discussion of current and development of future National Advisory Council on Migrant Health Recommendations. A Public Hearing for Section 329 grantees and other organizations is scheduled for Friday, November 3, 3 p.m. to 6 p.m., and a Farmworker Public Hearing is scheduled for Saturday, November 4, 8 a.m. to 12 p.m. at the above hotel.

The Council is soliciting oral and written comments for testimony; specific to migrant/seasonal farmworker health and migrant health program issues.

Anyone requiring information regarding the subject Council should contact Susan Hagler, Migrant Health Program, Staff Support to the National Advisory Council on Migrant Health, Bureau of Primary Care, Health Resources and Services Administration, 4350 East West Highway, Room 7–A51, Rockville, Maryland 20857, Telephone (301) 594–4302.

* * * * *

Name: Maternal and Child Health Research Grants Review Committee

Date and Time: November 6–8, 1995, 9 a.m.

Place: Ramada Inn at Congressional Park, 1775 Rockville Pike, Rockville, Maryland 20852.

Open on November 6, 1995, 9 a.m.–10 a.m.

Closed for remainder of meeting.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Science, Education and Analysis, Maternal and Child Health Bureau, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 6 at 10 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Associate Administrator for Policy Coordination, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr.P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Agenda Items are subject to change as priorities dictate.

Dated: October 9, 1995.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 95–25500 Filed 10–13–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 56 FR 29484, June 27, 1991, as amended most recently in pertinent part at 59 FR 17106, April 11, 1994), is amended to reflect the following reorganization within the Center for Devices and Radiological Health (CDRH), Office of Operations, Food and Drug Administration (FDA).

The Center for Devices and Radiological Health is establishing a new office to place all of the Center's central management support functions within a single organization, contributing to improved support to CDRH's line functions. A new Office of Systems and Management is being established. The current Office of Information Systems and the Office of Management Services will be merged and their functions incorporated into the new office. The goals of the new organizations are to accomplish a number of reinvention initiatives including, streamlining, empowering, delayering and creating a more effective, customer service oriented organization. The new Office will also provide greater flexibility to respond to changing priorities, a structure that is more responsive, and maintenance of an acceptable level of service while accommodating personnel losses.

Under section HF–B, Organization:

1. Delete subparagraphs Office of Management Services (HFW11), and Office of Information Systems (HFW15) under paragraph Center for Devices and Radiological Health (HFW), in their entirety.

2. Insert the following new subparagraph under paragraph *Office of Operations (HFA9), Center for Devices and Radiological Health (HFW)* reading as follows:

Office of Systems and Management (HFW11). Advises the Center Director regarding all administrative management matters.

Plans, develops, and implements Center management policies and programs concerning financial and human resource management, contracts and grants management, conference management, occupational safety, organizational, and general office services support.

Develops and implements the Center's long-range, strategic, and operational plans.

Develops and applies evaluation techniques to measure the effectiveness of Center programs.

Provides general information and technical publication services to the Center.

Plans, conducts, and coordinates Center committee management activities.

Determines and implements Center strategy and utilization of information management resources.

Designs administrative, scientific, and technical information systems in support of Center programs.

Provides assistance to Center staff in accessing information necessary to carry out the Center's mission.

3. Prior Delegations of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: September 1, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–25501 Filed 10–13–95; 8:45 am]

BILLING CODE 4160–01–F

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention Conference Review Committee Meeting in October

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Cancellation of meeting.

SUMMARY: Public notice was given in the Federal Register on October 5, 1995 (Vol. 60, No. 193, page 52201) that the Center for Substance Abuse Prevention Conference Review Committee would be meeting on October 23–27 at the Residence Inn, Bethesda, Maryland. The meeting has subsequently been cancelled.

Dated: October 10, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–25540 Filed 10–13–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. 3918–N–05]

Privacy Act of 1974—Notice of Amended System of Records

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice; Proposed amendment to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Assistant Secretary for Public and Indian Housing is amending the system of records titled, ''Tenant Eligibility Verification Files''—HUD/PIH–1, previously published at 60 FR 21545; May 2, 1995. The amended notice: (1) Describes the categories of records in the system more specifically and (2) adds a ''Purpose'' section to the system of records notice. Further, the revised system of records notice contains some technical amendments: A more specific system location and more specific references to the Internal Revenue Service and Social Security Administration system of records. The system of records notice below supersedes the May 2, 1995, system of records notice.

This system of records contains computer matching and tenant eligibility verification records necessary to support the identification of tenants who have been or may be obtaining excessive rental housing assistance. The system of records also supports referrals of information concerning those tenants to entities that administer HUD rental assistance programs (i.e., housing agencies [which includes public housing agencies and Indian housing authorities], owners of subsidized multifamily projects, and management agents) and to law enforcement agencies for possible administrative or legal actions, as appropriate. However, HUD may not redisclose to entities that administer HUD programs information that HUD obtains from the Social Security Administration (SSA) and the Internal Revenue Service (IRS), pursuant to 26 U.S.C. 6103 (1)(7)(d)(ix)—a section of the Internal Revenue Code added by section 13403 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66.

The exemptions of HUD/PIH–1 from certain provisions of the Privacy Act of 1994, described at 59 FR 9406; February 28, 1994, continue to apply to HUD/PIH–1, as amended.

EFFECTIVE DATE: This proposal shall become effective without further notice in 30 calendar days (November 15, 1995) unless comments are received during or before that date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. 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.

FOR FURTHER INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Telephone Number (202) 708–2374, concerning Privacy Act matters. David L. Decker, Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, Telephone Number (202) 708–0099, concerning computer matching matters. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Privacy Act Officers for the Office of Personnel Management (OPM) and the Department of Defense (DoD) have advised HUD that the categories of records section of the May 2, 1995, notice require clarification concerning OPM and DoD records. Reading the May 2, 1995, system of records notice literally, one may conclude that HUD/PIH–1 includes two OPM systems of records (OPM/GOVT–1 and OPM/Central–1), and a DoD system of records (S322.10.DMDC). HUD intended that HUD/PIH–1 include selected information from the OPM and DoD system of records obtained pursuant to their routine uses concerning computer matching. HUD did not intend that OPM/GOVT–1, OPM/Central–1 and S322.10.DMDC become categories of records in the HUD/PIH–1 system of records. A similar problem existed, to a lesser degree, regarding other categories or records cited in the system of records notice.

HUD is amending record categories (7) and (8), for OPM and DoD-provided information, to be more specific, i.e., that the records included in HUD/PIH–1 include only records obtained through computer matching. Similarly, HUD is amending the description of record categories (3), (4), (5), (6) and (9) concerning information obtained from other sources. Further, HUD added a ''Purposes'' section to the system of records notice to clarify the intent of the system of records.

This amendment retains language in the May 2, 1995, system of records notice allowing HUD to: (a) Expand and improve the effectiveness of HUD's computer matching programs by consolidating responsibilities concerning assisted housing programs into one office; (b) implement provisions of Title 26 of the Internal Revenue Code, section 6103(1)(7), that permit SSA and IRS disclosure to HUD of earned and unearned income information, respectively, for tenants who receive housing assistance from HUD's programs; (c) develop more efficient and effective methods for verifying social security and supplemental security income information used in determining tenants' eligibility for, and amount of, housing assistance; and (d) permit computer matching of records obtained from other Federal agencies with tenant income date, the outcome of which may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive.

Regarding item (c) above, entities that administer HUD's assisted housing programs currently request from the SSA social security and supplemental security income information needed to determine tenants; eligibility for and level of benefits by submitting a mark sense card to the SSA. Then the SAA processes the card and mails the income information to the entity administering HUD-assisted housing programs. The SSA has advised HUD of plans to terminate obsolete mark sense card operation and requested that HUD work with SSA have concluded that computer matching provides a more efficient and more effective technique for providing social security and supplemental security information to entities that administer HUD's assisted housing programs that the mark sense card operations. HUD plans to use HUD/PIH–1 records in identifying tenants who have underreported social security and supplemental security information.

Entities that administer HUD's assisted housing programs may continue to use the mark sense card processing operation, known as the Third Party Query System (TPQY), until further notice. HUD plans to initiate testing of computer matching to verify social security and supplemental income information during Fiscal Year 1996. When HUD has demonstrated success in the computer matching process and is ready for large-scale implementation of the matching, HUD will, in coordination with SSA, inform entities that administer HUD assisted housing programs to discontinue use of the TPQY.

HUD will also use HUD/PIH–1 in reporting potential income disparities to tenants or the entities that administer HUD's assisted housing programs, as permitted under law. A notice of the HUD/SSA/IRS computer matching program concerning earned and unearned income, social security and supplemental security income is published at 60 FR 21548, May 2, 1995.

A report of the Department's intention to establish the system has been submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs, and the House Committee on Government Reform and Oversight pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Record About Individuals,'' July 25, 1994; 59 FR 37914.

Issued at Washington, DC. October 10, 1995.

Donald C. Demitros,

Acting Deputy Assistant Secretary for for Management.

HUD/PIH–1

SYSTEM NAME:

Tenant Eligibility Verification Files.

SYSTEM LOCATION:

U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, DC 20410.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants receiving housing assistance provided by programs administered by the Department of Housing and Urban Development, or information concerning those tenants obtained from other Federal or state agencies, housing agencies, owners, and management agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of: (1) Automated tenant data obtained from HUD/H–11, Tenant Housing Assistance and Contract Verification Data, published at 59 FR 6035; February 9, 1994, (two HUD automated systems—the Multifamily Tenant Certification System and the Tenant Rental Assistance Certification System—are the primary components of HUD/H–11); (2) automated tenant data provided by housing agencies, owners or management agents (generally these records are available in HUD/H–11); (3) information obtained from computer matching with automated earned income data that the SSA provides under 26 U.S.C. 6103(1)(7)(A) from the Earnings Recording and Self-Employment Income System (HHS/SSA/OSR, 09–60–0059) (Earnings Record) and Master Beneficiary Record (HHS/SSA/OSR, 09–60–0090); (4) information obtained from computer matching with automated unearned income data that the IRS provides to HUD under 26 U.S.C. 6103(1)(7)(B) from Treasury/IRS 22.061, Wage and Information Returns Processing (IRP) File Treasury/IFS; (5) information obtained from computer matching with automated Title II (social security) and Title XVI (supplemental security income) data that the SSA provides to HUD under a routine use from the Supplemental Security Income Record, HHS/SSA/OSR 90–60–0103; (6) information obtained from computer matching with wage and unemployment compensation data from State wage information collection agencies; (7) information obtained from computer matching with automated data from the Office of Personnel Management's General Personnel Records (OMP/GOVT–1), and the Civil Service Retirement and Insurance Records System (OPM/Central–1) pursuant to a routine use; (8) information obtained from computer matching with automated data from the Department of Defense's Defense Manpower Data Center Data Base (S322.10DMDC) pursuant to a routine use; (9) information obtained from computer matching with automated records from the SSA's Master Files of Social Security Number Holder, known as the Enumeration Verification System (HHS/SSA/OSR, 09–60–0058) pursuant to a routine use; (10) applications for housing assistance and other related documentation obtained from tenant case files maintained by housing agencies, owners, and management; (11) data received from employers confirming income or deductions supporting determinations of eligibility for, and the amount of, housing assistance benefits; (12) automated records provided by other Federal agencies under the investigative exclusion of the Computer Matching and Privacy Protection Act of 1988; and (13) automated records provided by housing agencies, owners and management agents regarding actions taken on computer matching results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code, 26 U.S.C. 6103(l)(7)(D), permits HUD to request from the Commissioner of the SSA and the Secretary of the Treasury, SSA and IRS earned and unearned income information, respectively, needed to verify the incomes of tenants who receive housing assistance. Section 6103(l)(7)(D) precludes HUD from redisclosing that information to entities that administer HUD programs (i.e., housing agencies, owners and management agents). However, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, 42 U.S.C. 3544, as amended, allows HUD to notify those entities that disparities exist between the tenant-reported incomes and income obtained from independent income sources, i.e., the SSA or the IRS.

Section 165 of the Housing and Community Development Act of 1987, Pub. L. 100–242, authorizes HUD to require applicants and participants in HUD-administered programs involving housing assistance to disclose to HUD their social security numbers as a condition of initial or continuing eligibility for participation. Subpart T of 24 CFR part 200 applies this requirement to members of households six (6) years of age and older.

Applicable laws concerning HUD's assisted housing programs include: the United States Housing Act of 1937, 42 U.S.C. 1437 note; and section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s.

PURPOSES:

The primary purposes of HUD/PIH–1 are to aid HUD and entities that administer HUD's assisted housing programs in: (a) Increasing the availability of housing assistance to individuals who meet the requirements of Federal housing assistance programs, (b) detecting abuses in assisted housing programs, (c) taking administrative or legal actions to resolve past abuses of assisted housing programs and (d) deterring abuses. HUD/PIH–1 serves as a repository for automated information used in and resulting from computer matching tenant data for recipients of Federal rental assistance to other data sources; HUD/PIH also contains non-automated information used in and resulting from verifying computer matching results and in accomplishing the purposes previously cited. Records in this new system are subject to use in authorized and approved computer matching programs regulated under the Privacy Act of 1974, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Records included in the system may be used in conducting computer matching with Federal and State agencies to aid in the identification of tenants who have received excessive rental housing assistance.

2. Records that HUD obtains from the SSA and the IRS under the authority of 26 U.S.C. 6103(l)(7), may be disclosed only to the tenant/taxpayer, to HUD employees responsible for investigating or prosecuting such violation or enforcing or implementing a statute, rule or regulation, or as otherwise permitted under 26 U.S.C. 6103.

3. Records that indicate a potential violation of law, whether criminal, civil or regulatory in nature, except for records obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to the appropriate Federal, state or local agency charged with the responsibility for investigating or prosecuting such violation or enforcing or implementing a statute, rule or regulation.

4. Records, except for those obtained from the SSA or IRS under the authority of 26 U.S.C. 6103(l)(7), may be disclosed to a congressional office in response to an inquiry from that congressional office made at the request of the individual who is the subject of the records.

5. Records, with the exception of those obtained pursuant to 26 U.S.C. 6103(l)(7), may be disclosed to housing agencies, owners and management agents in order to assist them in determining tenants' eligibility for housing assistance, and the amount of that assistance and to facilitate recovery of money or property or other administrative actions, i.e., eviction, necessary to promote the integrity of programs.

6. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed during the course of an administrative proceeding where HUD or a housing agency, owner or management agent is a party to the litigation and disclosure is relevant and reasonably necessary to adjudicate the matter.

7. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

8. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to a

Federal agency to initiate Federal salary or annuity offsets as necessary to collect excessive housing assistance received by the tenant.

9. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), concerning an individual's receipt of excessive housing assistance, including the individual's actions to repay the same, may be disclosed to the Federal agency that employs such individual, for the purpose of notifying the employer of potential violation of the Standards of Ethical Conduct for Employees of the Executive Branch.

10. Records may be used to provide statistical information to Congress and the Office of Management and Budget for use in evaluating the effectiveness of computer matching, income verification and related administrative or legal actions taken.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored manually in tenant case files and electronically in office automation equipment. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(1)(7) (A) and (B), may also be stored on mainframe computer facilities.

RETRIEVABILITY:

Records may be retrieved by manual or computer search of indices by the name, social security number, housing agency, owner or management agent.

SAFEGUARDS:

Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those persons whose official duties require access. Computer files and printed listings are maintained in licked cabinets. Computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated records is limited to authorized personnel who must use a password system to gain access. HUD will safeguard the SSA and the IRS records obtained pursuant to 26 U.S.C. 6103(l)(7) (A) and (B) in accordance with 26 U.S.C. 6103(p)(4) and the IRS's ''Tax Information Security Guidelines for Federal, State and Local Agencies,'' Publication 1075.

RETENTION AND DISPOSAL:

Only those computer files and printouts created from the computer matching that meet predetermined criteria are maintained. These records will be destroyed as soon as they have served the matching program's purpose. All other records will be destroyed as soon as possible within 1 year. Paper listings containing personal identifiers will be shredded. Computer source files provided by other organizations will be returned to those organizations or destroyed in accordance with computer matching agreements.

Information obtained through computer matching and tenant case file reviews will be destroyed as soon as follow-up processing of this information is completed, unless the information is required for evidentiary reasons or needed by housing agencies, owners and management agents for use in program eligibility determinations. When needed for evidentiary documentation, the information will be referred to the HUD Office of Inspector General (OIG) or other appropriate Federal, state or local agencies charged with the responsibility for investigating or prosecuting such violations. When referred to the HUD OIG, the information then becomes a part of the Investigative Files of the Office of Inspector General, HUD/OIG–1.

SYSTEM MANAGER AND ADDRESS:

Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5156, Washington, DC 20410.

NOTIFICATION AND RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to such records, should address inquiries to the Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5156, Washington, DC 20410.

Written requests should contain the full name, Social Security Number, date of birth, current address and telephone number of the individual.

For personal visits, the individual must be able to provide some acceptable identification, such as a driver's license or other identification card.

CONTESTING RECORD PROCEDURES:

The procedures for amendment or correction of records, and for appealing initial agency determinations, appear in 24 CFR part 16.

RECORD SOURCE CATEGORIES:

The Assistant Secretary for Public and Indian Housing collects information from a variety of sources, including: housing agencies, the Assistant Secretary for Housing-Federal Housing Commissioner (tenant information provided by owners and management agents), state wage information collection agencies, other Federal and state agencies, law enforcement agencies, program participants, complainants, and other nongovernmental sources.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

To the extent that information in this system of records falls within the coverage of subsection (k)(2) of the Privacy Act, 5 U.S.C. 552(k)(2), the system is exempt from the requirements of subsections (c)(3), (d)(1), (d) (2), and (e)(1) of the Privacy Act. To the extent that information in this system of records falls within the coverage of subsection (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5), the system is exempt from the requirements of subsection (d)(1) of the Privacy Act. See 24 CFR 16.15 (c) and (d).

[FR Doc. 95–25589 Filed 10–13–95; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–066–96–1300–00; CACA–20139 and CACA–22901]

Proposed Sand and Gravel Mining Operation in Soledad Canyon, Los Angeles County, CA

AGENCY: Bureau of Land Management, Department of the Interior, Palm Springs—South Coast Resource Area, Desert District, California.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and 40 CFR 1508.22, notice is hereby given that the Bureau of Land Management (BLM) will prepare an Environmental Impact Statement (EIS) for the Transit Mixed Concrete (TMC) Surface Mining Project (Project) proposed for construction and operation in Soledad Canyon, Los Angeles County, California. TMC acquired the rights to develop the Project through a competitive bid process. The BLM granted the mineral material contract to TMC in March 1990. The BLM complied with NEPA for the sale of sand and gravel for the Project site by preparing an Environmental Assessment (EA) and issuing a Finding of No Significant Impact (FONSI) in 1989.

The Project plans to mine a total of 83 million tons of materials and sell approximately 56 million tons of sand and gravel, also known as Portland cement concrete sand and gravel (PCC aggregates), over a 20-year period to fulfill contracts entered into with the BLM. The Project includes plans to operate a concrete batch plant to produce and deliver ready-mixed concrete to the local market. All proposed mining and operations will be located north of Soledad Canyon Road and the Santa Clara River. The 500-acre site represents one of the westernmost reserves for PCC aggregate production in the Saugus-Newhall Production-Consumption Region that is located outside the floodplain of the Santa Clara River or a tributary wash.

The general mining plan is to mine on the south side of the ridge through a series of four excavation cuts. Each cut will progress from a higher elevation and proceed downslope. Fill areas for excess natural fines will be established on both the south and north sides of the ridge. Reclamation will be concurrent with mining operations and measures have been incorporated into Project design to minimize erosion, provide watershed control, and protect water quality in the Santa Clara River. A full range of alternatives to the proposed action will be considered in the EIS.

SUPPLEMENTARY INFORMATION: The Project site is on ''split-estate'' lands where the minerals are federally owned and administered by the BLM, and where the surface is privately owned. Because the Project is located in the County of Los Angeles (County), it is also subject to approval of a Surface Mining Permit through preparation of an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA). The County has been the Lead Agency for preparation of an EIR that has been prepared as a document separate from the EIS.

Public participation is an integral part of the review process. Comments are being requested to help identify significant issues or concerns related to the proposed action to determine the scope of the issues (including alternatives) that need to be analyzed, and to identify and eliminate from detailed study the issues that are not significant. All comments recommending that the EIS address specific environmental issues should contain supporting documentation and rationale.

DATES: Written comments must be submitted no later than November 15, 1995, to the following address: Ms. Julia Dougan, Area Manager, Bureau of Land Management, Palm Springs—South Coast Resource Area Office, P.O. Box 2000, North Palm Springs, California 92258–2000.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Patty Cook, BLM, Palm Springs—South Coast Resource Area, P.O. Box 2000, North Palm Springs, CA 92258–2000, telephone 619–251–4853.

Dated: October 4, 1995.

Joan Oxendine,

Acting Area Manager.

[FR Doc. 95–25483 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–40–P

[AK–040–1430–00; AA–76879, AA–76936, AA–77643, AA–77776]

Notice of Intent To Prepare a Management Framework Plan Amendment/Environmental Assessment (MFP/EA); Alaska

ACTION: Notice of Intent to prepare an amendment to Southcentral Planning Area Management Framework Plan (MFP) to analyze a proposal adding lands to those designated in the MFP as ''AREAS IN WHICH APPLICATIONS FOR FLPMA LEASES AND SALES WILL BE ACCEPTED.'' The plan amendment would be called ''Victory Bible Camp Amendment to the Southcentral MFP''.

SUMMARY: The Anchorage District Office (ADO), Bureau of Land Management (BLM) proposes an amendment to Southcentral Planning Area MFP dated March 3, 1983, which would allow ADO to classify approximately 129 acres as available for sale under the Federal Land Policy Management Act (FLPMA).

Affected lands are described as follows:

Parcel One: Land now under Airport Lease A–053435, at Victory Bible Camp, near Mile 95 of the Glenn Highway, further described as lying within:

Seward Meridian, Alaska

T. 20 N., R. 8 E.,
Secs. 23 and 26.
Containing approximately 80 acres.

Parcel Two: Land adjacent to the United Methodist Church, at Chugiak, Alaska, further described as:

Seward Meridian, Alaska

T. 15 N., R. 1 W.,
Lot 53, Section 19.
Containing 1.42 acres.

Parcel Three: Land now under Lease AA–55607 for a parking lot adjacent to the Pioneer Peak Baptist Church along the old Glenn Highway near Bodenburg Butte, at Palmer, Alaska, further described as:

Seward Meridian, Alaska

T. 17 N., R. 2 E.,
Lot 22, Section 26.
Containing 0.94 acre.

Parcel Four: A portion of Lot 2, U.S. Survey 2625, now occupied by Jack and Nadine Smith, at Medfra, Alaska, lying within:

Kateel River Meridian, Alaska

T. 27 S., R. 22 E.,
Sec. 32.
Containing approximately 45 acres.

Parcel Five: One (1) acre of land now occupied by John and Natalie Stone, described by metes and bounds as follows:

Beginning at the witness point located on line 4–1 of U.S. Survey No. 10551, Alaska, in Sec. 32, T. 27 S., R. 22 E., Kateel River Meridian, Alaska;
Thence southwesterly approximately 132 feet on line 4–1 to establish Corner No. 1, the true point of beginning;
Thence continuing southwesterly along line 4–1 approximately 198 feet to Corner No. 2;
Thence southeasterly approximately 220 feet to Corner No. 3;
Thence northeasterly 198 feet to Corner No. 4;
Thence northwesterly 220 feet to Corner No. 1, and the true point of beginning.

The intent of this description is to encompass the applicant's improvements and not encumber more than one (1) acre.

Parcel Six: A parcel of land in the vicinity of Clam Gulch, described by metes and bounds as follows:

Beginning at ¼ corner (GLO Monument) of Sections 21 and 22, T. 2 N., R. 12 W., Seward Meridian, Alaska, Corner No. 1 the true point of beginning;
Thence westerly approximately 659.70 feet to Corner No. 2;
Thence northerly approximately 66 feet to Corner No. 3;
Thence easterly approximately 659.70 feet to Corner No. 4;
Thence southerly approximately 66 feet to Corner No. 1, and the true point of beginning; containing approximately 1 acre.

The issue to be addressed in the Amendment/EA is: should these lands be classified for disposal and offered for direct sale to proponents.

The Southcentral Planning Area MFP has been reviewed and found to be inadequate to support disposal of the affected parcels, even though it did recommend opening other lands in the southcentral area to various types of settlement entry and sale.

DATES: Interested parties may submit comments regarding this plan amendment until November 30, 1995.

ADDRESSES: Comments should be sent to District Manager, Anchorage District

Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599.

FOR FURTHER INFORMATION CONTACT: Robert P. Rinehart, BLM, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599, (907) 267–1272, or (800) 478–1263.

SUPPLEMENTARY INFORMATION: After the comment period on this Notice of Intent, the BLM will prepare a MFP Amendment/EA and Record of Decision. A Notice of Availability/Notice of Realty action (NOA/NORA) will announce the availability of the Plan Amendment/EA and Record of Decision in a subsequent publication.

Dated: October 3, 1995.

Nicholas Douglas,

District Manager.

[FR Doc. 95–25547 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–JA–P

[OR–958–1430–01; GP6–004; OR–47205]

Conveyance of Public Land; Order Providing for Opening of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 280 acres of public lands out of Federal ownership. This action will also open 220.77 acres of reconveyed land to surface entry, except the agricultural land laws. The mineral estate is not in Federal ownership.

EFFECTIVE DATE: November 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pamela J. Chappel, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208, 503–952–6170.

SUPPLEMENTARY INFORMATION: Notice is hereby given that in an exchange of lands made under the authority of Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, as amended, a patent and two quit claim deeds have been issued transferring 280 acres in Jackson County, Oregon from Federal to private ownership.

In the exchange, the following described land has been reconveyed to the United States:

Willamette Meridian

T. 41 S., R. 2 E.,

Sec. 8, that portion of the W½NE¼, S½NW¼, N½SW¼, lying westerly of Interstate 5 and, excepting lands now owned by the State of Oregon, 2 as more particularly identified and described in the official records of the Bureau of Land Management, Oregon State Office.

Revested Oregon and California Railroad Grant Land

T. 41 S., R. 2 E.,

Sec. 8, N½N½NW¼NE¼ and N½NW¼.

The area described contains 220.77 acres in Jackson County.

The land is included in the multiple use withdrawal made by Public Land Order No. 5490, as modified by Public Land Order No. 7043, and will not be opened to the agricultural land laws.

At 8:30 a.m. on November 20, 1995, the above described land will be opened to the operation of the public land laws generally, except to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid existing applications received at or prior to 8:30 a.m., on November 20, 1995, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Dated: October 5, 1995.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 95–25496 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–33–P

[CA–930–5410–00–B070; CACA 35383]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 5.00 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Marcia Sieckman, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858. Serial No. CACA 35383.

T. 5N., R. 10 W., San Bernardino Meridian

Sec. 2, N½NE¼SE¼SE¼.

County—Los Angeles.

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the Federal Register as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the Federal Register specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: October 4, 1995.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 95–25485 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–40–P

[CA–930–5410–00–B062; CACA 34658]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 80.00 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Marcia Sieckman, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858. Serial No. CACA 33365.

T. 29 N., R. 15 E., Mount Diablo Meridian

Sec. 7, SE¼NE¼;

Sec. 8, SW¼NW¼.

County—Lassen.

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the Federal Register as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the Federal Register specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated October 4, 1995.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 95–25495 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–40–P

[NV–930–3130–00; N–59509]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purpose Lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Clark County Fire Department proposes to use the land for a fire station.

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 35: NE¼NW¼NE¼NE¼.

Containing 2.500 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. Those rights for public road purposes which have been granted to Clark County by Permit No. N–54758 under the Act of October 21, 1976 (43USC1761).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for the lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments regarding the proposed lease/coveyance for classification of the lands to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas Nevada 89126.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a fire station. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective December 15, 1995. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: October 2, 1995.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 95–25516 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–HC–M

[NV–930–1430–01; N–59697]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice-Modified Competitive Sale of Public Lands, Elko County, Nevada.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713), the Bureau of Land Management will offer for sale under modified competitive sale procedures, at no less than fair market value, the following described contiguous parcel of public land which has been found suitable for disposal. The land will not be offered for sale until at least sixty days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 29 N., R. 56 E.,
Sec. 22, lots 4, 5.

Comprising 20.65 acres, more or less.

The appraised fair market value for the above described parcel is $3,200.00 or $155.00 per acre.

DATES: The sale offering will be on December 20, 1995, at 10 a.m. at the Bureau of Land Management, Elko District Office, 3900 E. Idaho St., Elko, NV 89801.

SUPPLEMENTARY INFORMATION: The lands are being offered for public sale by the Bureau of Land Management in order to facilitate and enhance land use capability with an adjoining private landowner. The lands have been specifically identified as suitable for disposal by the Elko Resource Management Plan. The land is not needed for any resource program and is not suitable for management by the Bureau or any other Federal department or agency. Legal access to the parcel is available via Elko County Road C–717 (BLM right-of-way N–46527).

As a condition of sale, in accordance with 43 CFR 4120.3–6(c), the current grazing permittee will be entitled to receive reasonable compensation from the successful bidder for the adjusted value of any authorized range improvements located on the subject parcel. Specific range improvements involved are described in Environmental Assessment BLM/EK/PL–95/016 prepared on behalf of the sale.

The grazing preference on the affected grazing allotment would be reduced by 32 AUMs as a result of this action. The grazing permittee has agreed to the reduction of his grazing preference conditioned on the sale of the public lands and has waived the two-year notification required as a result of the proposed disposal of the public land.

The locatable and salable mineral estates have been determined to have no known value. The land is prospectively valuable for oil and gas. Therefore, the mineral estate, excluding oil and gas, will be conveyed simultaneously with the surface estate in accordance with Section 209(b)(1) of FLPMA. Acceptance of a sale offer will constitute an application for conveyance of the mineral interest. The high bidder will be required to submit a $50.00 nonrefundable filing fee with the remainder of the purchase price for conveyance of the mineral interests specified above. Failure to submit the nonrefundable fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

Sale Procedures

The land will be sold by modified competitive sale procedures with a preference right given to Barnes Ranches, Inc. The sale procedures will require the bidder to submit a written bid for no less than the fair market value. Each bid submitted will be accompanied by a certified check, postal money order, bank draft, or cashiers check for no less than 20% or ⅕ of the total amount bid for the parcel. Under modified competitive sale procedures, an apparent high bid will be declared by the Bureau of Land Management. The apparent high bidder and Barnes Ranches, Inc. (designated bidder) will be notified. The designated bidder will have 15 days from the date of notification to exercise the preference consideration to meet the high bid. Should the designated bidder fail to submit a bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared high bidder and awarded the sale. The amount will be paid by certified check, postal money order, bank draft, or cashiers check payable to the Department of the Interior—BLM. Failure to meet the conditions established for this sale will void the sale and any money received for the sale will be forfeited as proceeds of the sale to the Bureau of Land Management.

Sealed bids for no less than the appraised fair market value as determined by government appraisal will be received until December 5, 1995, at 4:30 p.m. The bid envelope must be marked on the lower left hand corner with BLM LAND SALE—DO NOT OPEN and the sale date. It is recommended that all mailed bids be sent via certified mail. The bid must not be for less than the appraised fair market value as specified in this notice. Bids will only be accepted for the entire parcel. DO NOT submit a bid for only a portion of the parcel. Each bid submitted will contain at least 20% or ⅕ of the total amount bid for the parcel. Any bids not conforming to the sale conditions or received after the above date and time will be returned to the bidders. In the event that two or more written high bids have been submitted in the same amount, the determination of which is to be considered the highest bid shall be by submission of new sealed bids by those bidders.

In the event that no bids are received on the parcel, the public lands in this sale proposal would remain for sale, over the counter, for a period of 30 days from date of sale. Interested parties may inquire about the parcel at the Bureau of Land Management, 3900 E. Idaho St., Elko, Nevada 89801, during the office hours of 7:30 a.m. to 4:30 p.m., Monday through Friday. The parcel would be available for sale through sealed bid procedures with all conditions of the sale applying. The Bureau of Land Management may accept or reject any or all offers or withdraw any land or interest in land for sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Act of October 21, 1976 (43 U.S.C. 1761). The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (43 U.S.C. 945).

2. Oil and gas. And will be subject to:

1. Those rights for telephone line purposes which have been granted to Alltel Nevada, Inc., its successors or assignees, by right-of-way grant N–19958 under the authority of the Act of October 21, 1976 (43 U.S.C. 1761).

2. Those rights for powerline purposes which have been granted to Wells Rural Electric Co., it successors or assignees, by right-of-way grant N–2111 under the authority of the Act of October 21, 1976 (43 U.S.C. 1761).

In the event that Barnes Ranches, Inc. is not the successful bidder, an easement 60 feet in width along the existing access road would be reserved to Barnes Ranches, Inc. thus ensuring continued legal access to the Barnes Ranch.

Publication of this notice in the Federal Register will segregate the subject lands from all appropriations under the public land laws, including the mining laws, mineral leasing laws, and the Geothermal Steam Act. The segregation will terminate upon issuance of the patent or other document of conveyance, or upon publication in the Federal Register of a termination of segregation, or 270 days from date of publication, whichever occurs first.

Federal law requires that all bidders must be U.S. citizens, 18 years of age or older, or in the case of corporations, be subject to the laws of any state of the United States. Proof of these requirements must accompany the bid.

For a period of 45 days from the date of publication of this Notice in the Federal Register, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 831, Elko, Nevada 89803. Any adverse comments will be reviewed by the Nevada State Director, who may sustain, vacate, or modify this realty action and issue a final determination. In the absence of timely filed objections this realty action will become the final determination of the Department of the Interior.

Dated: October 6, 1995.

Bill Baker,

Acting District Manager.

[FR Doc. 95–25549 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–HC–P

[AK–932–1430–01; F–022953, F–022958]

Conformance to Survey; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides official publication of the surveyed descriptions for the Kasigluk National Guard Site at Kasigluk, and the Koyuk National Guard Site at Koyuk, Alaska. The sites were withdrawn by Public Land Order No. 2020 for use by the Department of the Army.

1. The plat of survey for the Kasigluk National Guard Site was officially filed in the United States Department of the Interior, Bureau of Land Management, Washington DC on May 20, 1964. United States Survey No. 4048, Lot 2, containing 0.73 acre, represents the land that was previously described as follows:

A tract of land at approximate latitude 60°55’ N., longitude 162°35’ W., Beginning at the south corner of School Withdrawal, Serial No.62787, Fairbanks Land Office;

Thence S. 50° E., 7 feet;
Thence S. 40° W., 100 feet;
Thence N. 50° W., 200 feet;
Thence N. 40° E., 100 feet to boundary of said school withdrawal;
Thence S. 50° E., 193 feet along said boundary to the point of beginning.

The area as described contained approximately 0.46 acre.

2. The plat of survey for the Koyuk National Guard Site was officially filed in the United States Department of the Interior, Bureau of Land Management, Washington, DC, on October 17, 1968. United States Survey No. 4390, Tract C, Block 2, Lot 7, containing 0.58 acre, represents the land that was previously described as follows:

A tract of land near the north shore of Norton Bay, beginning at Corner No. 3 of U.S. Survey No. 2035;
Thence S. 46°51' W., 160 feet along an extension of the 2–3 line of said survey;
Thence N. 43°09' W., 140 feet;
Thence N. 46°51' E., 160 feet to a point on the 3–4 line of said U.S. Survey;
Thence S. 43°09' E., 140 feet along said 3–4 line to the point of beginning.

The area as described contained approximately 0.51 acre.

ADDRESSES: Inquiries about this land should be sent to the Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, BLM Alaska State Office, 907–271–5477.

Sue A. Wolf,

Chief, Branch of Lands.

[FR Doc. 95–25514 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–JA–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: Robert H. Thompson, Acting 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 Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on July 19, 1995:

The plat, representing the dependent resurvey of a portion of the subdivisional lines and subdivision of section 7, Township 15 South, Range 66 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 751, was accepted July 5, 1995.

This survey was executed to meet certain needs of the Bureau of Land Management and Nevada Power Company.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on August 24, 1995:

The plat, representing the dependent resurvey of a portion of the south boundary, a portion of the east boundary, and a portion of the subdivisional lines, and subdivision of section 36, T. 15 N., R. 19 E., of the Mount Diablo Meridian, in the State of Nevada, under Group No. 734, was accepted August 17, 1995.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

3. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on September 21, 1995:

The plat, representing the dependent resurvey of a portion of the north boundary, a portion of the west boundary and a portion of the subdivisional lines, and subdivision of sections 6 and 7, Township 19 South, Range 59 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 698, was accepted September 14, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on September 28, 1995:

The plat, representing the dependent resurvey the Third Standard Parallel North, through a portion of Range 30 East, a portion of the subdivisional lines, and subdivision of sections 1, 12, 13 and 24, Township 15 North, Range 30 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 711 was accepted September 21, 1995.

This survey was executed to meet certain administrative needs of the Department of the U.S. Navy.

5. The Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 4, 1995:

The plat, representing the survey of a portion of the subdivisional lines, and subdivision of sections 32, 33, 34 and 35, Township 16 North, Range 30 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 711 was accepted September 21, 1995.

This survey was executed to meet certain administrative needs of the Department of the U.S. Navy.

6. Subject to valid existing rights the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those lands listed under item 5 are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to December 4, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

7. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are 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: September 29, 1995.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 95–25511 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–HC–M

[OR–942–00–1420–00: G5–229]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian, Oregon

T. 23 S., R. 4 W., accepted September 13, 1995
T. 3 S., R. 5 W., accepted September 15, 1995
T. 21 S., R. 5 W., accepted September 14, 1995
T. 23 S., R. 5 W., accepted September 13, 1995
T. 17 S., R. 9 W., accepted September 13, 1995
T. 19 S., R. 12 W., accepted September 20, 1995 (2 Sheets)
T. 25 S., R. 12 W., accepted September 25, 1995
T. 36 S., R. 14 W., accepted August 29, 1995 (2 Sheets)

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the date after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management (1515 S.W. 5th Avenue), P.O. Box 2965, Portland, Oregon 97208.

Dated: October 3, 1995.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 95–25513 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–33–M

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from November 1, 1995, through April 30, 1996. The List of Restricted Joint Bidders published March 20, 1995, in the Federal Register at 60 FR 14777 covered the period of May 1, 1995, through October 31, 1995.

Group I. Exxon Corporation; Exxon San Joaquin Production Co.

Group II. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; CalResources LLC.

Group III. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group IV. BP America Inc.; The Standard Oil Co.; BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.

Dated: October 6, 1995.

Carolita U. Kallaur,

Acting Director, Minerals Management Service.

[FR Doc. 95–25569 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Delaware Water Gap National Recreation Area Citizens Advisory Commission Meeting

AGENCY: National Park Service; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces three upcoming meetings of the Delaware Water Gap National Recreation Area Citizens Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act (Public Law 92–463).

Meeting Date and Time: Thursday, November 9, 1995 at 7 pm

Address: Bangor Borough Hall, Bangor, PA 18013

Meeting Date and Time: Saturday, January 13, 1996 at 9 am

Address: Sussex County Community College Hill, Newton, NJ 07860

Meeting Date and Time: Thursday, March 14, 1996 at 7 pm

Address: East Stroudsburg University, East Stroudsburg, PA 18301

The agenda for the meeting consists of reports from Citizen Advisory Commission committees including: By-Laws, Natural Resources, Recreation, Cultural and Historical Resources, Intergovernmental and Public Affairs, Construction and Capital Project Implementation, as well as Special Committee Reports. Superintendent Roger K. Rector will give a report on various park issues.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items with the Commission. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizens Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

FOR FURTHER INFORMATION, CONTACT: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324, 717–588–2418.

Dated: October 4, 1995.

Warren D. Beach,

Acting Associate Field Director, Northeast Field Area.

[FR Doc. 95–25523 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Assessment Drilling an Exploratory Oil Well

In the matter of Murphy Exploration and Production Company, Big Thicket National Preserve, Hardin County, Texas.

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Hanson Production Company a Plan of Operations to drill an exploratory oil well in Big Thicket National Preserve, located within Hardin County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice. The documents can be viewed during normal business hours at the Office of the Superintendent, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas. Copies can be requested from the Superintendent, Big Thicket National Preserve, 3785 Milam, Beaumont, TX 77701.

Dated: October 6, 1995.

Richard F. Straham,

Acting Superintendent, Big Thicket National Preserve.

[FR Doc. 95–25524 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–70–M

Notice of Realty Action, Proposed Exchange, Rocky Mountain National Park, CO

AGENCY: National Park Service, Interior.

ACTION: Notice of realty action.

SUMMARY: Notice of Realty Action, Proposed exchange of Federally-owned interests in water for municipally-owned interests in land and water, Rocky Mountain National Park, Grand and Larimer Counties, Colorado.

I

The following described Federally-owned interests in water, assigned to the National Park Service for the use of Rocky Mountain National Park, have been determined to be suitable for disposal by exchange. The authority for this exchange is the Act of July 15, 1968 (16 U.S.C. 460*l*–22).

These selected Federal interests in water are a portion of the 3 cubic feet per second (cfs) of water assigned to Rocky Mountain National Park for park purposes under Article 24 of the 1938 Repayment Contract between the United States Bureau of Reclamation and the Northern Colorado Water Conservancy District. It has been determined that park purposes will be served by this exchange.

The Federally-owned interests in water to be exchanged are 0.85 cfs not to exceed the total amount of 180 acre-feet annually, subject to the terms and conditions of the Memorandum of Understanding and Agreement between the National Park Service, the United States Bureau of Reclamation, the Northern Colorado Water Conservancy District and the City of Loveland, Colorado, dated August 7, 1995.

II

In exchange for the interests in water identified in Section I., the United States of America will acquire all right, title and interest of the City of Loveland in and to the Eureka Ditch, including the waters thereof. Acquisition of this ditch will enable the National Park Service to eliminate the ditch and restore natural conditions and flows to the watershed.

The Eureka Ditch is located within the boundaries of Rocky Mountain National Park in Sections 6, 7, 17 and 18, Township 4 North, Range 74 West, 6th P.M., Grand and Larimer Counties, Colorado.

The interest to be acquired is a right-of-way for the construction, operation and maintenance of a water diversion ditch originally granted by the United States Department of the Interior on October 26, 1914, to an unincorporated association of twenty (20) individuals, as follows: Jerome Igo, William C. Levis, George M. Howard, Charles A. White, W.A. Insinger, Arthur Strong, Samuel H. Southard, Burton D. Sanborn, Neill Brothers, John M.B. Petrinkin, George M. Houston, Adolph Z. Solomon, J.M. Ferguson. W.H. Farr, A.W. Durkee, A.A. Howard, C.A. Carlson, Peter F. Daven, P.W. Putnam and S.A. Moore.

The value of the interests in land and water to be exchanged shall be determined by a current fair market value appraisal and if they are not approximately equal, the values shall be equalized by adjustment in the interests to be exchanged as circumstances require.

Detailed information concerning this exchange including a precise legal desciption of the ditch and the Memorandum of Understanding and Agreement are available from the Realty Officer, Intermountain Field Area, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287, (303) 969–2611.

For a period of 45 calendar days from the date of this notice, interested parties may submit comments to the above address. Adverse comments will be evaluated and this action may be modified or vacated accordingly. In the absence of any action to modify or vacate, this realty action will become the final determination of the Department of the Interior.

Dated: September 28, 1995.

John E. Cook,

Field Director, Intermountain Field Area.

[FR Doc. 95–25525 Filed 10–13–95; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Implementation of the Communications Assistance for Law Enforcement Act

AGENCY: Federal Bureau of Investigation (FBI).

ACTION: Initial notice and requests for comments.

SUMMARY: The FBI is providing initial notification of law enforcement capacity requirements as mandated in section 104 of the Communications Assistance for Law Enforcement Act. Comments regarding this initial notice will be considered in the development of the final capacity notice.

DATES: Written comments must be received on or before November 15, 1995.

ADDRESSES: Comments should be submitted in triplicate to the Telecommunications Industry Liaison Unit (TILU), Federal Bureau of Investigation, P.O. Box 220450, Chantilly, VA 22022–0450.

FOR FURTHER INFORMATION CONTACT: Contact TILU at (800) 551–0336. Please refer to your question as a capacity notice question.

I. Background

On October 25, 1994, the President signed into law the Communications Assistance for Law Enforcement Act (CALEA) (Public Law 103–414; 47 U.S.C. 1001–1010). This law presents law enforcement's requirements for the surveillance of wire or electronic communications. The primary purpose of the CALEA is to clarify a telecommunications carrier's duty to assist law enforcement agencies with the lawful interception of communications and the acquisition of call-identifying information in an ever-changing telecommunications environment. To ensure that law enforcement agencies can continue to conduct authorized surveillance of wire or electronic communications, the CALEA states that telecommunications carriers must meet the assistance capability requirements set forth in section 103 of the Act (and restated in Appendix A of this notice).

Section 104 of the CALEA mandates that the Attorney General of the United States provide notice of estimates for the actual and maximum number of pen register, trap and trace, and communication intercepts that law enforcement agencies may conduct and use simultaneously.

The definitions for ''actual capacity'' and ''maximum capacity'' are included below:

Actual Capacity—''notice of the actual number of communication interceptions. pen registers, and trap and trace devices, representing a portion of the maximum capacity that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by the date that is 4 years after the date of enactment of the CALEA'' (CALEA, section 104(a)(1)(A)).

Maximum Capacity—''notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is

4 years after of enactment of the CALEA'' (CALEA, section 104(a)(1)(B)).

This Federal Register announcement serves as the initial notice of the government's actual and maximum capacity requirements. These requirements will aid telecommunications carriers in developing and deploying solutions to meet the assistance capability requirements set forth in section 103 of the CALEA. A final notice will be issued in accordance with the CALEA requirements after considering comments to this initial notice.

The actual and maximum capacity requirements were developed by the FBI in coordination with law enforcement. By order of the Attorney General of the United States, as codified in 28 CFR 0.85 (o), government implementation responsibilities under the CALEA were delegated to the FBI. The FBI, in turn, is establishing TILU to carry out the government's implementation responsibilities, including the publication of capacity notices.

For the purposes of this document, the terms defined in section 2510 of title 18, United States Code, and section 102 of the CALEA (section 1001 of title 47, United States Code) have, respectively, the meanings stated in those sections. Additional clarification of terms is provided in Appendix B of this notice.

II. Introduction

The capacity figures in this notice reflect the combined number of simultaneous pen register, trap and trace, and communication interceptions that law enforcement may conduct by October 25, 1998. All telecommunications carriers must, within 3 years after the publication of the final notice of capacity requirements or within 4 years after the date of enactment of the CALEA, whichever is longer, ensure that their systems are capable of accommodating simultaneously the number of pen register, trap and trace, and communication interceptions identified in the actual capacity requirements. Furthermore, all telecommunications carriers shall ensure capabilities exist to expeditiously accommodate any increase in the actual number of pen register, trap and trace, and communication interceptions that authorized agencies may seek to conduct and use, up to the maximum capacity requirement. Some carriers may not need to make modifications to their equipment, facilities, and services in response to this notice because they currently meet all law enforcement capacity and capability requirements for electronic surveillance.

The capacity requirements are not intended to specify, required or prohibit adoption of any particular system design or configuration by a telecommunications carrier, equipment manufacturer, or support services provider. These entities must develop an appropriate solution to comply with the capacity requirements set forth in this notice and with the assistance capability requirements found in section 103 of the CALEA. In developing solutions, carriers should consider the effect that particular services and features may have on capacity requirements. For example, the required number of ports, lines, or other network resources may vary depending upon the use of particular services and features by an intercept subject. The FBI, along with other law enforcement agencies, will be available, through the consultative process, to discuss these engineering issues.

In accordance with the intent of the CALEA, carriers must ensure that their equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of meeting the capability and capacity requirements mandated by the CALEA. These requirements apply to existing and future telecommunications carriers.

III. Capacity Requirements Derivation

The capacity figures that are presented in this initial notice were derived as a result of a thorough analysis of electronic surveillance needs. Information regarding electronic surveillance activities for a specific time period was obtained from telecommunications carriers, law enforcement, U.S. District Courts, State Courts, State Attorneys General, and State District Attorneys to establish a historical baseline of activity.

The historical baseline of electronic surveillance activity was determined after examination of both the location and occurrence of each electronic surveillance reported. The historical baseline was then analyzed to derive the total and simultaneous electronic surveillance activity by switch and within specific geographic areas. Future capacity needs were then determined after consideration of the impact of demographics, market trends, and other factors on the historical baseline.

The analysis indicates that electronic surveillance activity varies by geographic area. Therefore, the capacity requirements will vary by geographic area. The capacity requirements are reported by category, with each geographic area being assigned to one of three distinct categories. The use of categories enables capacity requirements to be stated in a manner that reasonably represents law enforcement electronic surveillance needs in all geographic areas, yet does not overburden the telecommunications industry by holding all carriers to the same level of capacity.

Category I (the highest category) and Category II (the intermediate category) represent those geographic areas where the majority of electronic surveillance activity occurs. Only a few of the most densely populated areas, which have historically been areas of high electronic surveillance activity, are grouped into Category I. Other densely populated areas and some suburban areas, with moderate electronic surveillance activity, are grouped into Category II. The numbers for these categories were derived based on the analysis described above. Category I and Category II apply to approximately 25 percent of the equipment, facilities, and services covered by the survey over the time period.

Category III (the lowest category) represents law enforcement's minimum acceptable capacity requirements for electronic surveillance activity. This category covers all other geographic areas. The numbers for Category III were derived by analyzing areas of historically low electronic surveillance activity and projecting future needs in order to establish a requirement for a minimum level of capacity for electronic surveillance.

All telecommunications carriers are expected to meet the minimum capacity requirements of Category III. Carriers will be individually notified of those specific geographic areas within the areas they serve that exceed Category III and warrant a Category I or Category II capacity requirement. The individual carrier notifications will occur contemporaneously with the publication of the final notice. It is anticipated that the majority of the area served by a carrier will fall into Category III; however, if Category I and Category II capacity requirements are necessary, they are likely to affect only a small portion of their area served.

This initial capacity notice includes the actual and maximum capacity requirements for Categories I, II, and III. After considering comments to this initial notice, a final notice will be published. Future changes to the maximum capacity requirements issued in the final notice will be published in the Federal Register, as necessary, in accordance with section 104(c).

IV. Initial Statement of Actual and Maximum Capacity

The actual and maximum capacity requirements are presented as a percentage of the engineered capacity of the equipment, facilities, and services that provide a customer or subscriber with the ability to originate, terminate, or direct communications. Engineered capacity refers to the maximum number of subscribers that can be served by that equipment, facility, or service. Frequently, the percentage is applied to the engineered subscriber capacity of a switch, however, the percentage can also apply to nonswitch equipment (i.e., network peripherals) involved in the origination, termination, or direction of communications. Percentages are being used rather than fixed numbers due to the dynamics and diversity of the telecommunications industry. The use of percentages allows telecommunications carriers the flexibility to adjust to changes in marketplace conditions or changes in the number of subscribers, access lines, equipment, facilities, etc., and still know the required level of capacity.

As a result of extensive consultation with federal, State, and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment, the FBI proposes the following capacity requirements for Categories I, II, and III:

Category I

Actual Capacity

Each telecommunications carrier must provide the ability to meet the capability assistance requirements defined in section 103 of the CALEA for a number of simultaneous pen register, trap and trace, and communication interceptions equal to 0.5% of the engineered capacity of the equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications.

Maximum Capacity

Each telecommunications carrier must ensure that it can expeditiously increase its capacity to meet the assistance capability requirements defined in section 103 of the CALEA for a number of simultaneous pen register, trap and trace, and communication interceptions equal to 1% of the engineered capacity of the equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications.

Category II

Actual Capacity

Each telecommunications carrier must provide the ability to meet the capability assistance requirements defined in section 103 of the CALEA for a number of simultaneous pen register, trap and trace, and communication interceptions equal to 0.25% of the engineered capacity of the equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications.

Maximum Capacity

Each telecommunications carrier must ensure that it can expeditiously increase its capacity to meet the assistance capacity requirements defined in section 103 of the CALEA for a number of simultaneous pen register, trap and trace, and communication interceptions equal to 0.5% of the engineered capacity of the equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications.

Category III

Actual Capacity

Each telecommunications carrier must provide the ability to meet the capability assistance requirements defined in section 103 of the CALEA for a number of simultaneous pen register, trap and trace, and communication interceptions equal to 0.05% of the engineered capacity of the equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications.

Maximum Capacity

Each telecommunications carrier must ensure that it can expeditiously increase its capacity to meet the assistance capability requirements defined in section 103 of the CALEA for a number of simultaneous pen register, trap and trace, and communication interceptions equal to 0.25% of the engineered capacity of the equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications.

When translated from percentages to numbers, capacity requirements should be rounded up to the nearest whole number.

V. Carrier Statements and Consultation

As set forth in section 104(d) of the CALEA, each telecommunications carrier is required to provide within 180 days after publication of the final capacity notice a statement identifying any of its systems or services that do not have the capacity to meet the assistance capability requirements stated in section 103 of the CALEA. These carrier statements will be used in conjunction with law enforcement priorities and other factors to determine the specific equipment, facilities, and services that require immediate modification and that may be eligible for cost reimbursement. The FBI will consult with telecommunications carriers to establish a template for responding to the capability and capacity requirements.

Appendix A—CALEA, Sec. 103 (Pub. L. 103–414; 47 U.S.C. 1002) Assistance Capability Requirements

(a) Capability Requirements.—Except as provided in subsections (b), (c), and (d) of this section and sections 108(a) and 109(b) and (d), a telecommunications carrier shall ensure that its equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

(1) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's equipment, facility, or service, or at such later time as may be acceptable to the government;

(2) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to access call-identifying information that is reasonably available to the carrier—

(A) before, during, or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the government); and

(B) in a manner that allows it to be associated with the communication to which it pertains, except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127 of title 18, United States Code), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

(3) delivering intercepted communications and call-identifying information to the government, pursuant to a court order or other lawful authorization, in a format such that they may be transmitted by means of equipment, facilities, or services procured by the government to a location other than the premises of the carrier; and

(4) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

(B) information regarding the government's interception of communications and access to call-identifying information.

(b) Limitations.—

(1) Design of Features and Systems Configurations.—This title does not authorize any law enforcement agency or officer—

(A) to require any specific design of equipment, facilities, services, features, or system configurations to be adopted by any provide of a wire or electronic communication service, any manufacturer of telecommunications equipment, or any provider of telecommunications support services; or

(B) to prohibit the adoption of any equipment, facility, service, or feature by any provider of a wire or electronic communication service, any manufacturer of telecommunications equipment, or any provider of telecommunications support services.

(2) Information Services; Private Networks and Interconnection Services and Facilities.—The requirements of subsection (a) do not apply to—

(A) information services; or

(B) equipment, facilities, or services that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

(3) Excryption.—A telecommunications carrier shall not be responsible for decryping, or ensuring the government's ability to decrypt, any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information necessary to decrypt the communication.

(c) Emergency or Exigent Circumstances.—In emergency or exigent circumstances (including those described in sections 2518 (7) or (11)(b) and 3125 of title 18, United States Code, and section 1805(e) of title 50 of such Code), a carrier at its discretion may comply with subsection (a)(3) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

(d) Mobile Service Assistance Requirements.—A telecommunications carrier that is a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934) offering a feature or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of a wire or electronic communication service that has acquired access to the communications.

Appendix B—Glossary

Communication Interceptions—Regarding a wire or an electronic communication, communication interceptions include any information concerning the substance, purport, or meaning of that communication. Communication interceptions apply to any type of wire or electronic communications (i.e., any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature).

Call-Identifying Information—Dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier. (See Pub. L. 103–414, Section 102(2))

Electronic Surveillance—The statutory-based legal authorization, process and the associated technological capabilities and activities related to communication interceptions and the acquisition of call-identifying information as defined above.

Law Enforcement—Federal, State, and local law enforcement agencies.

Pen Register—A device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as and incident to billing, for communications service provided by such provider or any device used by a provider or customer of a wire communications service for cost accounting or other like purposes in the ordinary course of its business. (18 U.S.C. 3127(3))

Telecommunications Carrier—Any person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire; including as a person or entity engaged in providing commercial mobile services (as defined in section 322(d) of the Communications Act of 1934) and a person or entity engaged in providing wire or electronic communication switching or transmission service to the extent that the Federal Communications Commission finds that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of Title I of the CALEA. The term does not include persons or entities insofar as they are engaged in providing information services and any class or category of telecommunications carriers that the Commission exempts by the rule after consultation with the U.S. Attorney General. (See Pub. L. 103–414, Section 102(8))

Trap and Trace—A device that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted. (18 U.S.C. 3127(4))

Dated: October 10, 1995.

Louis J. Freey,

Director.

[FR Doc. 95–25562 Filed 10–13–95; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–093]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: November 1, 1995, 8 a.m. to 4 p.m.; and November 2, 1995, 10:30 a.m. to noon.

ADDRESSES: Ames Research Center, Committee Room 213, Building 200, Moffett Field, CA 94035–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Anne L. Accola, Code Z, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0682.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Science Institutes
—NASA Performance Plan
—NRC Committee on Space Station Report
—Systems Concepts and Analysis Group
—Committee/Task Force Reports
—Overview of Ames Research Center Programs
—NRC Future of Space Science Study
—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register. Unbadged visitors will be required to obtain a visitor's badge at the Ames Research Center badging office at the main gate to the Center.

Dated: October 10, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–25563 Filed 10–13–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces that the Special Emphasis Panel in Astronomical Sciences (1186) will be holding panel meetings for the purpose of reviewing proposals submitted to the Stellar Astronomy and Astrophysics Program in the area of Astronomical Sciences. In order to review the large volume of proposals, panel meetings will be held on October 30–31 (4). All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, from 8:30 AM to 5 PM each day.

Contact Person: Dr. Jane Russell, Program Director, Stellar Astronomy and Astrophysics, Division of Astronomical Sciences, National Science Foundation, Room 1045, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1827.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25491 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 920463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross-Disciplinary Activities (#1193).

Date and Time: October 30, 1995, 8:30 a.m. to 5 p.m.

Place: St. James Hotel—950 24th St., NW, Washington, DC 20037.

Contact Person(s): T.C. Ting and Rita Rodriguez, Program Directors, CISE/OCDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Instrumentation proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25494 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Proposal Review Panel in Earth Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel in Earth Sciences (1569).

Date and Time: November 01–03, 1995; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 770.

Type of Meeting: Closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1559.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25487 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Economics, Decision and Management Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics, Decision and Management Sciences (#1759).

Date and Time: November 16–17, 1995.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 1150, Arlington, VA 22230.

Contact Person: Dr. Robin Cantor, Program Director for DRMS, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1757.

Agenda: To review and evaluate DRMS proposals as part of the selection process for awards.

Date and Time: November 3–4, 1995.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Rooms 920 & 970, Arlington, VA 22230.

Contact Person: Dr. Daniel H. Newlon, Program Director for Economics, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1753.

Agenda: To review and evaluate Economics proposals as part of the selection process for awards.

Date and Time: November 2–3, 1995.

Place: St. James Hotel, Washington, DC.

Contact Person: Dr. Marietta Baba, Program Director for TQO, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1757.

Agenda: To review and evaluate TQO proposals as part of the selection process for awards.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25493 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel In Geosciences.

Date and Time: Wednesday, Nov. 1–Friday, Nov. 3, 1995, 8:30 a.m.–5 p.m.

Place: Woods Hole Oceanographic Inst., Woods Hole, MA, Clark South 271.

Type of Meeting: Closed.

Contact Person: Dr. Donald Heinrichs, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1576.

Agenda: To review and evaluate the NSF Ocean Sciences AMS for routine operation of the facility.

Purpose of Meeting: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing a proposal action that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25489 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (#1756)

Date: October 30, 31 & November 1, 1995

Time: 8 am to 5:30 p.m. each day

Place: Room 730, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230

Type of Meeting: Closed

Contact Person: Dr. Paul E. Filmer, Program Director for IAI, Office of the Assistant Director, GEO, Room 1071, National Science Foundation, Arlington, VA (703) 306–1515.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Start-Up Grants proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25492 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Human Resource Development (1199).

Date and Time: November 1, 1995: 7 p.m. to 9 p.m.; November 2, 1995: 8 a.m. to 5 p.m.; November 3, 1995: 8 a.m. to 3:30 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Lola E. Rogers, Program Director, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1637.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Experimental Projects for Women and Girls proposals as part of the selection for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25488 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Dates and Times: October 30, 1995, 7 p.m.–9 p.m.; October 31, 1995, 8 a.m.–9 p.m.; November 1, 1995, 8 a.m.–6 p.m.

Place: National Science Foundation; 4201 Wilson Boulevard, Arlington, VA 22230; Rooms 375.1, 310, 340, 360, 380, and 390.

Type of Meetings: Closed.

Contact Person: Dr. W. Lance Haworth, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone (703) 306–1815.

Purpose of Meetings: To provide advice and recommendations concerning pre-proposals submitted to NSF for financial support by the Materials Research Science and Engineering Center Program.

Agenda: Review and evaluate pre-proposals as part of the selection process for subsequent solicitation of full proposals.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–25490 Filed 10–13–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–39 and DPR–48 issued to Commonwealth Edison Company (the licensee) for operation of the Zion Nuclear Power Station, Units 1 and 2, located in Lake County, Illinois.

The proposed amendment would change the definition of the F* distance in the Technical Specifications.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Application of the F* criteria to degraded steam generator tubes will not affect any of the initiators or precursors of any accident previously evaluated. Application of the proposed change will not increase the likelihood that a transient initiating event will occur because transients are initiated by equipment malfunction and/or catastrophic system failure. The proposed change will allow an F* criteria of 1.05 inches to be applied to disposition steam generator tubes that are degraded in the tubesheet roll transition region. The F* criteria specify a minimum length of tubing which must be free from any indication of degradation. Below the F* Distance, any type or size of indication, including complete circumferential through wall cracking, will not impact the structural integrity of the tube with respect to pull out forces during normal operation or accident conditions, and does not significantly affect the leakage behavior of the tube.

While the Zion [Updated Final Safety Analysis Report] UFSAR does not specifically address the Feedwater Line Break (FLB) accident, the FLB event was used as the limiting event in the evaluation of the F* criteria. The FLB pressure differential of 2650 psi maximizes the axial loading on the tube for pull out considerations and is bounding. In addition, the close proximity of the tubesheet to the tube will prevent tube rupture or collapse of the tube in the tubesheet span. Because application of the F* criteria will ensure that degraded tubes will provide the same structural integrity as an original undegraded tube during normal operation and accident conditions, the probability of occurrence of an accident previously evaluated is not significantly increased.

Application of the F* criteria will not significantly increase the consequences of any accident previously evaluated. The F* criteria ensure that sufficient length of undegraded tube exists to maintain structural integrity and preclude significant leakage. Due to the proximity of the tubesheet to the tube, any leakage from degradations below the F* Distance would be negligible and would be well below the Technical Specification limits established for steam generator leakage. Tube rupture as a result of indications below the F* Distance is precluded because the tubesheet prevents outward expansion of the tube in response to internal pressure.

The relationship between the tubesheet region leak rate at the most limiting postulated accident conditions relative to that for normal plant operating conditions has been assessed. For the postulated leak source within the roll expansion, increasing the differential pressure on the tube wall increases the driving head for the leak; however, it also increases the tube to tubesheet loading.

For a leak source below the F* Distance, the maximum assumed pressure differential results in an insignificant leak rate relative to that which could be associated with normal plant operation. This is a result of the increased tube to tubesheet loading associated with the increased differential pressure. Thus for a circumferential indication within the roll expansion that is left in service in accordance with the F* criteria, any leakage under accident conditions would be less than that experienced under normal operating conditions. Therefore, any leakage under accident conditions would be less than the existing Technical Specification leakage limit, which is consistent with accident analysis assumptions.

Steam generator tube integrity must be maintained under the postulated loss of coolant accident condition of secondary-to-primary differential pressure. Based on tube collapse strength characteristics, the constraint provided to the tube by the tubesheet gives a margin between the tube collapse strength and the limiting secondary-to-primary differential pressure condition, even in the presence of circumferential or axial indications. The maximum secondary-to-primary differential pressure during a postulated LOCA is 1005 psid. This value is significantly below the residual preload between the tubes and the tube sheet. Therefore, no significant secondary-to-primary leakage would be expected to occur.

In addition, the proposed changes will not affect the ability to safely shut down the operating unit and mitigate the consequences of an accident because the proposed changes will not necessitate changes to the emergency procedures governing accident conditions or plant recovery.

An administrative change is also included which deletes a footnote added for Unit 1 with Amendment 167. This footnote provided temporary relief and is no longer applicable. Those proposed changes will not increase the probability of occurrence or consequence of any accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Technical Specifications do not involve the addition of any new or different types of safety related equipment nor do they involve the operation of any equipment required for safe operation of the facility in a manner different from those addressed in the UFSAR. No safety related equipment or function will be altered as a result of the proposed changes. Also, the procedures governing normal plant operation and recovery from an accident are not changed by the application of the F* criteria. The F* criteria will allow the use of an alternate method to plugging or sleeving to repair steam generator tubes with degradation in the tubesheet region. The F* criteria ensure that both the structural integrity and leak tight nature of the steam generator tube will be equivalent to the original tube. Because the distance will be reflective of the roller size, no uncertainty need be considered. For subsequent inspections, the eddy current uncertainty will be considered if new indications are discovered within the re-rolled region. Since no new failure modes or mechanisms are introduced by the proposed changes, no new or different type of accident is created.

An administrative change is being proposed to remove a footnote which is no longer applicable. This proposed changes will not create the possibility of a new or different kind of accident from those previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

Plant safety margins are established through Limiting Conditions for Operation (LCOs), limiting safety system settings, and safety limits specified in Technical Specifications. There will be no changes to the LCOs, limiting safety system settings, or the safety limits as a result of the proposed changes. Application of the F* criteria will allow degraded steam generator tubes to be repaired by an alternative method to plugging or sleeving. Steam generator tube plugging decreases the total primary reactor coolant flow rate and heat transfer capability of the steam generator. While steam generator tube sleeving only slightly reduces the reactor coolant flow rate, large numbers of sleeves can have a measurable effect on flow rate and can complicate steam generator tube inspection activities.

Application of the F* criteria will allow a repair method that will restore the integrity of degraded steam generator tubes and will not adversely affect primary system flow rate or heat transfer capability. Application of the F* criteria will preserve the heat transfer capability of the steam generators and will maintain the design margins assumed in the analyses contained in the UFSAR. The alternate repair method will also be less complicated, faster, and will reduce personnel occupational exposure significantly. Based on the above discussion it is concluded that the proposed changes will not significantly reduce a margin of safety.

The administrative change to remove a footnote which is no longer applicable will not impact any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 15, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 248–5100 (in Missouri 1 (800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra, Director, Project Directorate III–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60690, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 6, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 10th day of October 1995.

For the Nuclear Regulatory Commission.

Clyde Y. Shiraki,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–25539 Filed 10–13–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36349; File No. SR–CBOE–95–53]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Monthly Fees for the Use of Optional ILX Features by its Members

October 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 5, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to establish, in addition to the existing monthly fee paid by CBOE members who install and use the basic ILX/WDN PC terminal package[2] in their floor booth locations, monthly fees for the use of optional ILX features by such members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, the Commission approved the CBOE's establishment of a monthly $350 fee per terminal to members who install the ILX/WDN PC terminal at their floor booth locations and use the ILX basic package or features.[3] The ILX/WDN PC terminal uses Windows-based software and includes an ILX window for display of market data and a CBOE WDN window for internal CBOE displays and functions.

The CBOE proposes to establish new monthly fees which will allow members to access one or more optional ILX news, market data and informational features that are not included in the basic ILX package. The new fees will be outlined in detail in a Regulatory Circular which will be issued to the Exchange's membership. A number of the optional ILX features have been available since June 1994, while other optional ILX data services have just recently been introduced.[4] After a member notifies the CBOE's Trading Operations Department of the optional feature(s) requested for a designated floor booth ILX/WDN PC terminal(s), ILX will switch on the chosen feature(s) or ''entitlement(s)'' from a remote location to enable the CBOE member's terminal(s) to receive the data.

The CBOE believes that its proposal is consistent with Section 6(b)(4) of the Act in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using CBOE facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change establishes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–95–53 and should be submitted by November 6, 1995.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The ILX/WDN terminals use Windows-based software and include an ILX window for the display of market data, and a CBOE WDN window for internal CBOE displays and functions. *See* Securities Exchange Act Release No. 33983 (May 6, 1994), 59 FR 23756.

[3] *See* Securities Exchange Act Release No. 33983 (April 29, 1994), 59 FR 23756.

[4] The Commission notes that the CBOE's proposal only is applicable to fees collected after the date of effectiveness of its proposal, and not to any fees collected prior to such date.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25551 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36352; File No. SR–MSRB–95–14]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Relating to the Settlement Dates for ''When, As and If Issued'' Transactions, the Confirmation of Inter-Dealer Transactions, and Providing New Issue Information to Registered Securities Clearing Agencies

October 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 15, 1995, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–MSRB–95–14) as described in items I, II, and III below, which items have been prepared primarily by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule is to amend MSRB rules G–12 and G–34 to modify the requirements for the setting of settlement dates for ''when, as and if issued'' transactions and for the confirmation of inter-dealer transactions. The proposal also seeks to modify and reorganize the requirements for providing new issue information to registered securities clearing agencies. Finally, the proposal seeks to make technical changes to rule language to clarify the different processing requirements for transactions that are eligible for automated comparison through the facilities of a registered clearing agency as opposed to those that are not eligible. The MSRB requests that the amendments be made effective thirty days after approval by the Commission.

[5] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On February 28, 1995, the Commission approved amendments to MSRB rules G–12(b) and G–15(b) redefining regular-way settlement as three rather than five business days (''T+3 settlement'').[3] Since that time, the MSRB has been reviewing its rules to determine other appropriate changes to accommodate T+3 settlement within the municipal securities market.

The proposed rule change seeks to amend MSRB rules G–12 and G–34 to modify the requirements for setting settlement dates for ''when, as and if issued'' transactions and for the confirmation of inter-dealer transactions. The proposed change also seeks to modify and reorganize the requirements for providing new issue information to registered securities clearing agencies. Finally, the proposal also seeks to make technical changes to rule language to clarify the different processing requirements for transactions that are eligible for automated comparison through the facilities of a registered clearing agency as opposed to those that are not eligible. These amendments seek to advance T+3 settlement in the municipal securities market and are designed generally to facilitate automated clearance and settlement of municipal securities and to support the MSRB's Transaction Reporting Program.[4]

MSRB rule G–12(f) requires all inter-dealer transactions eligible for automated comparison to be compared in an automated comparison system operated by a registered clearing agency.[5] Under the proposed rule change, revised MSRB rule G–12(b) would require that the settlement date for when, as and if issued (''when-issued'') transactions eligible for automated comparison not be earlier than two business days after notification of the initial settlement date for the issue is provided by the managing underwriter to the register clearing agency. These changes reflect current capabilities of the automated comparison system to process when-issued transactions.

[2] The Commission has modified the text of the summaries submitted by the MSRB.

[3] Securities Exchange Act Release No. 35427 (February 28, 1995), 60 FR 12798 [File No. SR–MSRB–94–10] (order approving proposed rule change).

[4] MSRB rule G–14 sets forth the Transaction Reporting Procedures for inter-dealer transactions.

MSRB rule G–12(b) currently requires that the settlement date of a when-issued transaction for the rare inter-dealer transactions not eligible for automated comparison not be earlier than the fifth business day following the date the physical confirmation indicating final settlement date is sent (six days for syndicate transactions).[6] The proposed rule change would require that the settlement date for such ineligible when-issued transactions, including syndicate transactions, not be earlier than the third business day following the date that the confirmation indicating final settlement is sent.

The proposed rule change also would amend MSRB rule G–12(c) concerning the sending of confirmations for inter-dealer transactions not eligible for automated comparison. For such ineligible when-issued transactions, the proposed rule change would reduce the time period for sending (1) the initial confirmation from two business days to one business day after trade date, and (ii) the final confirmation from five business days to three business days prior to final settlement. For regular-way transactions ineligible for automated comparison, the proposed rule change would change the requirement for sending a confirmation from one business day after trade date to trade date.

The changes to rules G–12(b) and G–12(c) generally accelerate the timing for sending confirmations and allow for the settlement of when-issued transactions in a shorter time frame. The MSRB

[5] MSRB rule G–12(b) requires the underwriter to provide the initial settlement date for a new issue to the registered clearing agency offering automated comparison services as soon as the initial settlement date is known or immediately upon a change. This requirement continues in effect under the proposed rule change by cross-reference in revised rule G–12(b)(2)(C) to new rule G–34(a)(ii)(D)(2). Generally, the automated comparison system requires two days advance notice of the initial settlement date of an issue from the underwriter to process when-issued transactions for the underwriter and all other dealers.

[6] Nearly all new issue municipal securities are eligible for automated comparison with the exception of those that do not meet the CUSIP numbering eligibility requirements.

believes that these changes will allow for more efficient clearance and settlement and will help conform the municipal securities market to the shorter settlement cycle.

In addition, the proposed rule change would amend MSRB rule G–34 to require underwriters to submit interest rate and final maturity information about new issues to the registered clearing agency offering comparison services as soon as such information is known and would reformat the existing requirements of the rule. The MSRB is aware of instances in which incomplete or inaccurate security descriptions for new issue municipal securities are available in the initial days of trading in the issue. The MSRB's Transaction Reporting Program and participants in the municipal securities market rely on accurate and complete security descriptions in the automated comparison system. The new requirement is designed to ensure that the registered securities clearing agencies have the information necessary to provide accurate descriptions and to calculate accurately final money amounts. Because the MSRB's Transaction Reporting Program is linked to the National Securities Clearing Corporation's (''NSCC'') automated comparison system,[7] the proposed amendment also will facilitate accurate prices and security descriptions in NSCC system.

The proposed rule change moves the requirement that underwriters provide the registered clearing agency with notification of settlement date as soon as it is known from rule G–12(b) to rule G–34. The placement of this requirement within rule G–34 is part of the MSRB's plan to include basic new issue requirements for underwriters within one rule.[8] Finally, the proposed rule change also makes technical changes in rule language to clarify the different processing requirements for transactions that are eligible for automated comparison as opposed to those transactions that are ineligible for automated comparison.

[7] As set forth in detail in MSRB rule G–14, brokers, dealers, or municipal securities dealers must submit or cause the submission of specified transaction information for any transaction eligible to be compared in NSCC's automated system directly to NSCC or to another registered clearing agency linked with NSCC for the purpose of automated comparison.

[8] Rule G–34 currently requires underwriters, for new issue municipal securities: (1) to apply for CUSIP numbers; (ii) to apply for depository eligibility; and (iii) to communicate CUSIP numbers and the initial trade date to syndicate and selling group members.

As set forth in Section 15B(b)(2)(C)[9] of the Act, the MSRB has the authority to adopt rules to foster cooperation with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities. The MSRB also has the authority to adopt rules to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and in general to protect investors and the public interest. The MSRB believes the proposed rule change is consistent with Section 15B(b)(2)(C) because the proposal should facilitate more efficient clearance and settlement and should assist the municipal securities market in conforming with T+3 settlement by fostering efficient and accurate reporting of transaction information and accelerating the confirmation and settlement time frames for when-issued transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it would apply equally to all brokers, dealers, and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In April 1995, the MSRB published for comment an earlier version of the proposed rule change to rules G–12(b) and G–34. One comment letter was received in response to this request.[10] The commentator was generally supportive of the proposed rule change. The proposed rule change was revised by the MSRB at its July 1995 meeting to add clarifying language to the amendments and to ensure consistency between the requirements of rule G–12(b) and G–12(c).

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 the MSRB 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.

The MSRB requests that the Commission delay effectiveness of the proposed rule change until thirty days after the approval by the Commission is published in the Federal Register to ensure that underwriting practices are in compliance with the rule change.

[9] 15 U.S.C. 78o–4(b)(2)(C).

[10] In addition to submitting comments pertaining to two other proposed rule changes by the MSRB, Goldman, Sachs & Co. stated that it fully supports the amendments proposed in this rule filing (SR–MSRB–95–14) but indicated that the mechanism for reporting prior to award both the interest rate and final maturity for any new issue will require some system developments. Letter from Edward C. Brisotti, Vice President, Operations Division, Goldman, Sachs & Co. to Judith A. Somerville, Uniform Practice Specialist, MSRB (May 31, 1995).

IV. Solicitation of Comments

Interested people 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, NW., Washington, DC 20549. Copies of the submissions, 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 Room. Copies of the filing will also be available for inspection and copying at the principal offices of the MSRB. All submissions should refer to File No. SR–MSRB–95–14 and should be submitted by November 6, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25510 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36350; File No. SR–PSE–95–17]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Members' Compliance With Position and Exercise Limits for Non-PSE Listed Options

October 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1995, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend PSE Rules 6.8, ''Position Limits,'' and 6.9, ''Exercise Limits,'' to require PSE members who trade non-PSE-listed option contracts and who are not members of the exchange where the options are traded to comply with the option position and exercise limits set by the exchange where the transactions are effected.[2]

The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to eliminate a jurisdictional loophole whereby a PSE member who exceeds position or exercise limits on another options exchange in an options issue not listed on the PSE, and who is not a member of the other exchange, falls outside of both the PSE's and the other options exchange's jurisdiction for position and exercise limit purposes.[3] The PSE notes that PSE Rules 6.8 and 6.9 prohibit PSE members from establishing or exercising excessive positions in PSE-listed options contracts; however, they do not prohibit PSE members from exceeding applicable position and exercise limits set by other options exchanges for non-PSE-listed option contracts. If the PSE member is not a member of the other exchange that lists the option contracts, then the other exchange cannot enforce its position and exercise requirements against the PSE member either.[4]

The proposed amendments will extend the PSE's position and exercise limit rules to apply to option contracts dealt in on any exchange (rather than only to option contracts dealt in on the PSE) by requiring a PSE member who is effecting transactions in non-PSE-listed option contracts on another exchange, of which he or she is not a member, to comply with the position and exercise limits set by the exchange on which the transaction is effected.[5]

(b) Statutory Basis

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to remove impediments to a free and open market, to promote just and equitable principles of trade, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PSE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.[6]

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, the requirements of Section 6(b)(5) thereunder [7] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. Specifically, the PSE has noted that Exchange rules do not currently prohibit PSE members from exceeding the position and exercise limits set by another exchange for non-PSE listed option contracts. Thus, if the PSE member is not a member of the exchange which lists the options, then neither the PSE nor the exchange that lists the options is able to enforce its position and exercise limits against the PSE member. The proposal eliminates this loophole and strengthens the Exchange's rules by requiring a PSE member who trades non-PSE listed

[1] The PSE requested accelerated approval of the proposed rule change. *See* Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, dated August 21, 1995 (''Amendment No. 1''). On September 12, 1995, the PSE amended its proposal to clarify that in applying the position and exercise limit rules of another options exchange, the PSE will also follow the applicable exemptions, interpretations, and policies of that exchange. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, OMS, Division, Commission, dated September 11, 1995 (''Amendment No. 2'').

[2] Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (*i.e.*, aggregating long calls and short puts or long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

[3] The Commission notes that, generally, the options exchanges have adopted uniform options position and exercise limits.

[4] The proposal applies to transactions in index options as well as equity options. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulation, PSE, and Yvonne Fraticelli, Attorney, OMS, Division, Commission, on September 22, 1995.

[5] In applying the position and exercise limits of another options exchange, the PSE will also follow any applicable exemptions, interpretations, and policies of that exchange. *See* Amendment No. 2, *supra* note 1.

[6] *See* Amendment No. 1, *supra* note 1.

[7] 15 U.S.C. 78f(b)(5) (1982).

option contracts on another exchange, and who is not a member of that exchange, to comply with the options position and exercise limits set by the exchange where the transactions are effected.[8]

As the Commission has noted in the past,[9] options position and exercise limits are intended to prevent the establishment of large options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position exercise limits are designed to minimize the potential for mini-manipulations[10] and for corners or squeezes of the underlying market. In addition, they serve to reduce the possibility for disruption of the options market itself, especially in illiquid option classes. The proposal extends the benefits of the position and exercise limit rules to include all options transactions entered into by PSE members.

As noted above, the proposed amendments will extend PSE Rules 6.8 and 6.9 to apply to option contracts dealt in on any exchange (rather than only to option contracts dealt in on the PSE) by requiring a PSE member who effects transactions in non-PSE-listed option contracts on another exchange, of which he or she is not a member, to comply with the position and exercise limits set by the exchange on which the transaction is effected. Such violations, consistent with any violation of the PSE's position and exercise limit rules, will be subject to fines imposed pursuant to PSE Rule 10.13, ''Minor Rule Plan'' or any other disciplinary action the PSE deems appropriate.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register because the proposal is identical to approved proposals submitted by the Chicago Board Options Exchange, Inc. (''CBOE'') and the Philadelphia Stock Exchange, Inc.[11] The CBOE and PHLX proposals were subject to the full notice and comment period and the Commission received no comments on those proposals. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the PSE's proposal on an accelerated basis.

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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 6, 1995.

It is therefore ordered, pursuant to Section 19( )(2) of the Act,[12] that the proposed rule change (File No. SR–PSE–95–17), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25552 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[8] In applying the position and exercise limits of another options exchange, the PSE will also follow any applicable exemptions, interpretations, and policies of that exchange. *See* Amendment No. 2, *supra* note 1.

[9] *See, e.g.*, Securities and Exchange Act Release No. 33283 (December 3, 1993), 58 FR 65204 (December 13, 1993) (order approving File No. SR–CBOE–93–43).

[10] Mini-manipulation is an attempt to influence, over a relatively small range, the price movement in a stock to benefit a previously established derivatives position.

[11] *See* Securities Exchange Act Release Nos. 3642 (September 18, 1995), 60 FR 49305 (September 22, 1995) (order approving File No. SR–CBOE–22) and 36257 (September 20, 1995), 60 FR 50228 (September 28, 1995) (order approving File No. SR–PHLX–95–31).

[12] 15 U.S.C. 78s(b)(2) (1982).

[13] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36351; File No. SR–Phlx–95–49]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Personnel Fingerprinting Requirements

October 6, 1995.

On July 3, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''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 incorporate the requirements of section 17(f)(2) of the Act,[3] and Rule 17f–2[4] thereunder into the Phlx's rules. On July 25, 1995, the Exchange filed Amendment No. 1 to request that its Minor Rule Plan (''MRP'') be amended to incorporate the rule proposed herein.[5]

The proposed rule change, together with Amendment No. 1, was published for comment in the Federal Register on August 22, 1995.[6] No comments were received on the proposal. On October 3, 1995, the Exchange filed a technical amendment to correct a cross-reference in the text of the proposed rule.[7] This order approves the proposal, as amended.

The Exchange proposes to adopt Phlx Rule 623, which would require members and participant organizations[8] to comply with the requirements of Section 17(f)(2) of the Act concerning the fingerprinting of required employees.[9] It also would require applicants for membership to be fingerprinted as part of the Phlx's membership application process. Finally, Phlx Rule 623 would require

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78q(f)(2).

[4] 17 CFR 240.17f–2.

[5] *See* Letter from Gerald O'Connell, First Vice President, Phlx, to Glen Barrentine, Team Leader, Division of Market Regulations, SEC (July 24, 1995).

[6] Securities Exchange Act Release No. 36108 (Aug. 16, 1995), 60 FR 43630.

[7] This technical amendment removes an incorrect reference to Rule 17f–1 from the proposal and substitutes the correct reference to Rule 17f–2. *See* Letter from Edith Hallahan, Special Counsel, Phlx, to Glen Barrentine, Team Leader, SEC (Oct. 3, 1995).

[8] A participant organization refers to a foreign currency options participant organization.

[9] 15 U.S.C. 78q(f)(2) (requiring every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency to fingerprint each of its partners, directors, officers, and employees and submit such fingerprints to the Attorney General of the United States or its designee for identification and appropriate processing).

member organizations to submit such fingerprints to the Exchange for processing prior to any employee performing functions that are not exempted by Rule 17f–2.[10] The Exchange maintains that incorporating the fingerprinting requirement into the Phlx's rules should facilitate compliance with Section 17(f)(2) of the Act and Rule 17f–2 thereunder by providing Exchange members with a ready reference to these requirements.

The Exchange also proposes to incorporate the provisions of Phlx Rule 623 into Floor Procedure Advice F–25. This would have the effect of adding these provisions to the Exchange's MRP.[11] The Exchange would impose the following fines for violations of the personnel fingerprinting rules and regulations; $50 for a first-time violation; $100 for a second-time violation; $250 for a third-time violation; and, for every violation thereafter, the sanction would be within the discretion of the Business Conduct Committee.

The Commission finds that the proposal 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] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) [13] 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. The Commission also believes the proposal is consistent with the Section 6(b)(6) [14] requirement that the rules of an exchange provide that its members be disciplined appropriately for violations of an exchange's rules and the Act.

[10] 17 CFR 240.17f–2 (exempting, for example, employees who do not sell securities; do not have regular access to the keeping, handling, or processing of securities, monies, or their original books and records; or do not have direct supervisory responsibility over persons engaged in the above mentioned activities).

[11] The Exchange's MRP, set forth in Phlx Rule 970, provides that the Exchange may impose a fine not to exceed $2,500 on any member, member organization, or person associated with or employed by a member or member organization, for any violation of an Exchange rule that has been deemed to be minor in nature and approved by the Commission for inclusion in the MRP. In addition, Phlx Rule 970 incorporates the Exchange's Floor Procedure Advice memoranda into the MRP. These memoranda, with accompanying fine schedules, describe which rule violations are eligible for the expedited disciplinary procedure under the MRP.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(6).

The Commission agrees with the Exchange and believes that including the Commission's fingerprinting requirements in the Phlx's rules should facilitate compliance by providing Exchange members with the Commission's fingerprinting requirements also should assist in the accurate verification of the identity and background of the Exchange's members and their employees.

The Commission also believes that it is appropriate to add these requirements to the Exchange's MRP. The purpose of the Exchange's MRP is to provide a response to a violation of Exchange rules when a meaningful sanction is needed, but initiation of a disciplinary proceeding pursuant to Phlx Rule 960.2 [15] is not suitable because such a proceeding would be more costly and time-consuming than would be warranted given the nature of the violation.[16]

The inclusion of a rule in an exchange's minor rule violation plan, however, should not be interpreted to mean that it is not an important rule. On the contrary, the Commission recognizes that the inclusion of violations of particular rules under a minor rule violation plan may make the exchange's disciplinary system more efficient in prosecuting more egregious or repeated violations of these rules, thereby furthering its mandates to protect investors and the public interest.

The Commission believes that violations of the personnel fingerprinting requirements lend themselves to the use of expedited proceedings because such violations are technical in nature and easily verifiable. Moreover, noncompliance with these provisions may be determined objectively and adjudicated quickly without the complicated factual and interpretive inquiries associated with more sophisticated Exchange disciplinary proceedings. Accordingly, the addition of the personnel fingerprinting requirements to the Exchange's MRP should provide an efficient and appropriate procedure for disciplining members who violate these requirements. This, in turn, should further the Exchange's ability to effectively enforce compliance by its members and member organizations with both the Commission's and the Exchange's rules.

[15] Phlx Rule 960.2 governs the initiation of disciplinary proceedings by the Exchange for violations within the disciplinary jurisdiction of the Exchange.

[16] Phlx Rule 970 is designed to provide an appropriate response to violations of certain Exchange rules, while preserving the due process rights of the accused party through specified required procedures. For example, the MRP permits any person to contest the Exchange's imposition of the fine through submission of a written answer, at which time the matter will become a formal disciplinary action.

If, however, the Exchange determines that a violation of one of these rules is not minor in nature, the Exchange retains the discretion to initiate full disciplinary proceedings in accordance with Phlx Rule 960.2. In fact, the Commission expects the Phlx to bring full disciplinary proceedings in appropriate cases (*e.g.*, in cases where the violation is egregious or where there is a history or pattern of repeated violations).

Finally, the Commission finds that the imposition of the recommended fines for violations of the personnel fingerprinting rules and regulations should result in appropriate discipline of members in a manner that is proportionate to the nature of such violations.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act, [17] that the proposed rule change (SR–Phlx–95–49) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25553 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21401; 812–9716]

Liberty All-Star Equity Fund; Notice of Application

October 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Liberty All-Star Equity Fund.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 19(b) of the Act and from rule 19b–1 thereunder.

SUMMARY OF APPLICATION: Applicant requests an order to permit applicant to make up to four distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect a distribution policy calling for quarterly distributions of a fixed percentage of its net asset value.

FILING DATES: The application was filed on August 8, 1995, and amended on September 22, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

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 October 31, 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 5th Street, N.W., Washington, D.C. 20549. Applicant, c/o Liberty Financial Companies, Inc., 600 Atlantic Avenue, Boston, MA 02210.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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 closed-end management investment company organized as a Massachusetts business trust. Applicant's investment objective is to seek total investment return, comprised of long-term capital appreciation and current income, through investment primarily in a diversified portfolio of equity securities.

2. Since June 1988, applicant's distribution policy (the ''Pay-Out Policy'') has been to make four quarterly distributions of an amount equal to 2.5% of its net asset value at the time of the declaration, for a total of approximately 10% of net asset value per year. If the total distributions required by the Pay-Out Policy exceed applicant's investment income and net realized capital gains, the excess is treated as a return of capital. If applicant's net investment income, net realized short-term capital gains, net realized long-term capital gains, and returns of capital for any year exceed the amount required to be distributed under the Pay-Out Policy, applicant may in its discretion retain, and not distribute, net realized long-term capital gains to the extent of such excess.

3. In accordance with rule 19a–1 under the Act, a separate statement showing the source of the distribution (net investment income, net realized capital gain, or return of capital) accompanies each distribution (or the confirmation of the reinvestment thereof under applicant's dividend reinvestment plan). Applicant's annual reports to shareholders also include this information for all distributions during the year. In addition, applicant has described its Pay-Out Policy in applicant's other communications to its shareholders, including the fact that the distributions called for by the policy will include returns of capital to the extent that applicant's net investment income and net realized capital gains are insufficient. Applicant also will provide an additional statement showing the amount and source of each quarterly distribution during the year with the IRS Form 1099–DIV reports sent to each shareholder who received distributions during the year (including shareholders who have sold shares during the year).

4. To date, applicant has completed three rights offerings of additional shares to its shareholders. Each of those rights offerings was short in duration and involved relatively small amounts of new shares. The rights in each of applicant's rights offerings were non-transferable and offered only to existing shareholders. The rights were offered only by means of the statutory prospectus, without solicitation by brokers and without payment of any commission or other underwriting fees.

5. Applicant requests relief to permit applicant to make up to four distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect a distribution policy calling for quarterly distributions of a fixed percentage of its net asset value.

Applicant's Legal Analysis

1. Section 19(b) provides that registered investment companies may not, in contravention of such rules, regulations, or orders as the SEC may prescribe, distribute long term capital gains more often than once every twelve months. Rule 19b–1 limits the number of capital gains distributions, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended, (the ''Code''), that applicant may make with respect to any one taxable year to one, plus a supplemental distribution made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional long term capital gains distribution made to avoid the excise tax under section 4982 of the Code.

2. Rule 19b–1, by limiting the number of net long-term capital gain distributions that applicant may make with respect to any one year, prevents the operation of the Pay-Out Policy whenever applicant's realized net long-term capital gains in any year exceed the total of the fixed quarterly distributions that under rule 19b–1 may include such capital gains. In that situation, the rule effectively forces the fixed quarterly distributions that under the rule may not include such capital gains to be funded with returns of capital (to the extent net investment income and realized short-term capital gains are insufficient), even though net realized long-term capital gains would otherwise be available therefor. The long-term capital gains in excess of the fixed quarterly distributions permitted by the rule then must either be added as an ''extra'' to one of the permitted capital gains distributions, thus exceeding the total annual amount called for by the policy, or be retained by applicant (with applicant paying taxes thereon).

3. Applicant believes that granting the requested relief would limit applicant's return of capital distributions to that amount necessary to make up any shortfall between applicant's guaranteed distribution and the total of its investment income and capital gains. The likelihood that applicant's shareholders would be subject to the additional tax return complexities involving when applicant retains and pays taxes on long term capital gains would be substantially reduced.

4. One of the concerns leading to the adoption of section 19(b) and rule 19b–1 was that shareholders might be unable to distinguish between frequent distributions of capital gain and dividends from investment income. Through the disclosures accompanying applicant's distributions, in applicant's prospectuses and annual reports, and in other communications with shareholders, applicant states that its shareholders will understand that applicant's fixed distributions are not tied to its investment income and realized capital gains and will not represent yield or investment return.

5. Another concern that led to the adoption of section 19(b) and rule 19b–1 was that frequent capital gain distributions could facilitate improper fund distribution practices, including in particular the practice of urging an investor to purchase fund shares on the basis of an upcoming dividend (''selling the dividend''), where the dividend results in an immediate corresponding reduction in net asset value and is in effect a return of the investor's capital. Applicant believes that this concern does not apply to closed-end investment

companies, such as applicant, which do not continuously distribute shares. Any rights offering, moreover, that applicant makes in the future will be non-transferable and will be offered only by means of the statutory prospectus, without solicitation by brokers and without payment of any commission or other underwriting fees and accordingly would provide no opportunity for selling the dividend.

6. Applicant states that another concern leading to the adoption of section 19(b) and rule 19b–1, increase in administrative costs, is not present because applicant will continue to make quarterly distributions regardless of what portion thereof is composed of capital gains.

7. For the reasons stated above, applicant believes that the requested exemption from section 19(b) of the Act and rule 19b–1 thereunder would be consistent with the standards set forth in section 6(c) of the Act, and would be in the best interests of applicant and its shareholders.

Applicant's Condition

Applicant agrees that any SEC order granting the requested relief shall terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by applicant of shares of applicant other than:

(i) A non-transferable rights offering to shareholders of applicant, provided that such offering does not include solicitation by brokers or the payment of any commissions or underwriting fee; and

(ii) An offering in connection with a merger, consolidation, acquisition or reorganization.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25507 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21404; 812–9782]

Prairie Funds, et al.; Notice of Application

October 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Prairie Funds, Prairie Institutional Funds, Prairie Intermediate Bond Fund, and Prairie Municipal Bond Fund, Inc., (collectively, the ''Funds''); First Chicago Investment Management Company (''FCIMCO'') and ANB Investment Management and Trust Company (''ANB–IMC'').

RELEVANT ACT SECTIONS: Order requested under section 6 (c) for an exemption from section 15(a).

SUMMARY OF APPLICATION: First Chicago Corporation, the ultimate parent of FCIMCO, will merge with and into NBD Bancorp, Inc. (''NBD''). The merger will result in the assignment, and thus the termination, of existing investment advisory and sub-advisory contracts of the Funds. The order would permit the implementation, without shareholder approval, of new advisory and sub-advisory contracts for a period of up to 120 days following November 30, 1995 (''Interim Period''). The order also would permit FCIMCO and ANB–IMC to receive from the Funds fees earned under the new investment advisory and sub-advisory contracts during the Interim Period following approval by the Funds' shareholders.

FILING DATES: The application was filed on September 26, 1995 and amended on October 6, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 31, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o First Chicago Investment Management Company, Three First National Plaza, Chicago, Illinois 60670, Attention: Secretary.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or C. David Messman, Branch Chief, at (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 from the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company. Each Fund has entered into an investment advisory agreement (the''Existing Advisory Agreement'') with FCIMCO, an investment adviser registered under the Investment Advisers Act of 1940, under which FCIMCO provides investment advisory services to each Fund. FCIMCO has engaged ANB–IMC, a registered investment adviser, to provide the day-to-day management of the International Equity Fund series of the Prairie Fund pursuant to a sub-investment advisory agreement (the ''Existing Sub-Investment Advisory Agreement,'' and together with the Existing Advisory Agreements, the ''Existing Agreements'').

2. FCIMCO is a wholly-owned subsidiary of The First National Bank of Chicago, which in turn is a wholly-owned subsidiary of First Chicago Corporation. ANB–IMC is a wholly-owned subsidiary of American National Bank and Trust Company, which in turn is a wholly-owned subsidiary of First Chicago Corporation.

3. Under an Agreement and Plan of Merger (the ''Merger Agreement'') dated July 11, 1995 between First Chicago Corporation and NBD, First Chicago Corporation agreed to merge with and into NBD, with NBD as the surviving corporation in the Merger and continuing under the name ''First Chicago NBD Corporation.''

4. On September 19, 1995, the respective boards of the Funds met to discuss the Merger. During those meetings, the boards, which are comprised entirely of members who are not ''interested persons'' (as that term is defined in the Act) of the respective Funds, considered the new investment advisory agreements between FCIMCO and each Fund (the ''New Advisory Agreements'') and the new sub-investment advisory agreement between FCIMCO and ANB–IMC with respect to the International Equity Fund (the ''New Sub-Investment Advisory Agreement'' and, together with the New Advisory Agreements, the ''New Agreements'') to be entered into upon consummation of the Merger. The boards evaluated the New Agreements after receiving such information as they requested as being reasonably necessary to evaluate whether the terms of the New Agreements were in the best interests of the Funds and their shareholders. Each New Agreement is identical to the relevant Existing Agreement, except for its effective date. In accordance with

section 15(c) of the Act, the boards approved the New Agreements.[1]

5. Originally, it was anticipated that the Merger would occur during the first quarter of 1996. Accordingly, the Funds tentatively had scheduled their shareholders' meetings for late December 1995 with the expectation of being able to adjourn into January 1996 or later, if necessary, to obtain the requisite vote. First Chicago Corporation recently was advised that the necessary bank regulatory approval for the Merger could occur more rapidly and that the Merger date could be advanced to November 30, 1995. Although the Funds have prepared the required proxy materials and have scheduled shareholder meetings for November 28, 1995, there may not be an adequate solicitation period.

6. Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution as escrow agent. The arrangement would provide that: (a) the fees payable to FCIMCO and ANB–IMC during the Interim Period under the New Agreements would be paid into an interest-bearing escrow account maintained by the escrow agent; (b) the amounts in the escrow account (including interest earned on such paid fees) would be paid to FCIMCO and ANB–IMC only upon approval by Fund shareholders of the New Agreements or, in the absence of such approval, to the respective Fund.

Applicants' Legal Analysis

1. Applicants seek an exemption pursuant to section 6(c) from section 15(a) of the Act to permit the implementation, without shareholder approval, of the New Agreements during the Interim Period. Applicants also request permission for FCIMCO and ANB–IMC to receive from each Fund all fees earned under the New Agreements implemented during the Interim Period if and to the extent the New Agreements are approved by the shareholders of such Fund. Applicants anticipate that the Merger could occur on November 30, 1995. Accordingly, the exemption would cover the period commencing on November 30, 1995 and continuing through the date the New Agreements are approved or disapproved by the shareholders of the respective Funds, which period shall be no longer than 120 days following the termination of the Existing Agreements (but in no event later than March 30, 1996).

2. Section 15(a) prohibits an investment adviser from providing investment advisory services to an investment company except under a written contract that has been approved by a majority of the voting securities of such investment company. Section 15(a) further requires that such written contract provide for its automatic termination in the event of an assignment. Section 2(a)(4) defines "assignment" to include any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

3. Upon completion of the Merger, First Chicago Corporation, FCIMCO's and ANB–IMC's ultimate parent, will merge into First Chicago NBD Corporation. The Merger will result in an "assignment" of the Existing Agreements within the meaning of section 2(a)(4). Consistent with section 15(a), therefore, each Existing Agreement will terminate according to its terms upon completion of the Merger.

4. Rule 15a–4 provides, in relevant part, that if an investment adviser's investment advisory contract with an investment company is terminated by assignment, the adviser may continue to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of the investment company and if neither the investment adviser nor a controlling person thereof directly or indirectly receives money or other benefit in connection with the assignment. Because First Chicago Corporation will receive a benefit in connection with the assignment of the Existing Agreements, applicants may not rely on rule 15a–4.

5. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

6. Applicants believe that the requested relief is necessary, as it would permit continuity of investment management to each Fund during the period following the Merger so that services to the Funds would not be disrupted. Applicants believe that the Interim Period they request will facilitate the orderly and reasonable consideration of the New Agreements by the Funds' shareholders in a manner that is consistent with the provisions of section 15 as well as the corporate governance objectives of the Act.

7. Applicants believe that the best interests of Fund shareholders would be served if FCIMCO and ANB–IMC receive fees for services during the Interim Period. These fees are essential to maintain FCIMCO's and, to a lesser degree, ANB–IMC's ability to provide services to the Funds. In addition, the fees to be paid during the Interim Period are at the same rate as the fees currently payable by the Funds under the Existing Agreements.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. The New Agreements will have the same terms and conditions as the Existing Agreements, except for their effective dates.

2. Fees earned by FCIMCO and ANB–IMC in respect of the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such paid fees) will be paid (a) to FCIMCO and ANB–IMC in accordance with the New Agreement, after the requisite approvals are obtained, or (b) to the respective Fund, in the absence of such approvals.

3. The Funds will hold meetings of stockholders to vote on approval of the New Agreements on or before the 120th day following the termination of the Existing Agreements (but in no event later than March 30, 1996).

4. First Chicago Corporation will bear the costs of preparing and filing this application and the costs relating to the solicitation of stockholder approval of the Funds' stockholders necessitated by the Merger.

5. FCIMCO and ANB–IMC will take all appropriate steps so that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the respective boards, including a majority of the non-interested board members, to the scope and quality of services previously provided. If personnel providing material services during the Interim Period change materially, FCIMCO will apprise and consult with the boards of the affected Funds to assure that they, including a majority of the non-interested board members, are satisfied that the services provided will not be diminished in scope or quality.

[1] Section 15(c) provides, in relevant part, that it shall be unlawful for any registered investment company to enter into an investment advisory contract unless the terms of such contract have been approved by the vote of a majority of directors, who are not parties to such contract or interested persons of any such party, cast in person at a meeting called for the purpose of voting on such approval.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25508 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26388]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 6, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 30, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/ or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70–7758)

Central and South West Corporation (''CSW''), a registered holding company, and its nonutility subsidiary company CSW Energy, Inc. (''CSW Energy''), both of 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 43, 45, 86, 87, 90 and 91 thereunder.

By order dated September 28, 1990 (HCAR No. 25162) (''1990 Order''), CSW and CSW Energy were authorized, through December 31, 1995: (i) to spend $75 million (''Aggregate General Authority'') to conduct preliminary studies of, investigate, research, develop, agree to construct (such construction subject to further Commission authorization) and, except with respect to independent power projects (''IPP's''), to consult with respect to qualifying cogeneration facilities and qualifying small power production facilities (collectively ''QF's'') and IPP's; (ii) to finance such activities through capital contributions, open account advances and loans up to $75 million; (iii) for CSW Energy to form Energy Sub for the purpose of engaging in a joint venture (''ARK Joint Venture'') with ARK Energy, Inc. (''ARK''), a nonassociate corporation; and (iv) for CSW Energy to use $25 million of the $75 million Aggregate General Authority to finance the ARK Joint Venture through capital contributions and loans (''ARK Joint Venture Authority''). The 1990 Order also authorized CSW to fund the activities of CSW Energy through capital contributions, open account advances and loans in the aggregate amount of $75 million through December 31, 1995. In addition, the 1990 Order authorized investments in the ARK Joint Venture in the form of capital contributions and loans.

By order dated November 22, 1991 (HCAR No. 25414) (''1991 Order''), CSW Energy was authorized to provide consulting services with respect to IPP's.

By order dated December 31, 1992 (HCAR No. 25728) (''1992 Order''), CSW, CSW Energy, Energy Sub and the ARK Joint Venture were authorized, through December 31, 1995, to increase: (i) the Aggregate General authority (granted in the 1990 Order) from $75 million to $150 million; and (ii) the financing authority for the ARK Joint Venture from $25 million to $50 million. In all other respects, the terms and conditions under the 1992 Order remained the same as the 1990 Order.

CSW and CSW Energy now propose that: (i) the Aggregate General Authority be increased from $150 million to $250 million, and (ii) the outstanding authorization from the 1990 Order, 1991 Order and 1992 Order be extended until December 31, 2005.

Central and South West Corporation, et al. (70–8205)

Central and South West Corporation (''CSW''), a registered holding company, and its nonutility subsidiary company CSW Energy, Inc. (''CSW Energy''), both of 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7 and 12(b) of the Act and rules 45, 53 and 54 thereunder.

By order dated August 6, 1993 (HCAR No. 25866) (''1993 Order''), CSW and CSW Energy were authorized, through December 31, 1995, to issue letters of credit, bid bonds or guarantees (collectively, ''Guarantees'') in connection with the development of qualifying cogeneration facilities, qualifying small power production facilities and independent power facilities, including exempt wholesale generators as defined in section 32 of the Act, in an aggregate amount not to exceed $50 million.

CSW and CSW Energy now propose to: (i) increase the aggregate amount of Guarantees that may be issued from $50 million to $75 million; and (ii) extend the authorization granted by the 1993 Order until December 31, 2005.

Eastern Utilities Associates, et al. (70–8701)

Eastern Utilities Associates (''EUA''), a registered holding company, and EUA Service Corporation (''ESC''), a wholly-owned subsidiary of EUA, both at P.O. Box 2333, Boston, Massachusetts 02107 have filed an application pursuant to section 13(b) of the Act and rules 80 through 94 promulgated thereunder.

ESC provides services to EUA's four electric utility companies—Blackstone Valley Electric Company (''Blackstone''), Montaup Electric Company (''Montaup''), Eastern Edison Company (''Eastern Edison'') and Newport Electric Corporation (''Newport'') (Blackstone, Montaup, Eastern Edison and Newport, hereinafter collectively, the ''Operating Companies''), as well as to EUA's other direct and indirect subsidiaries (collectively with the Operating Companies, the ''System Companies'').

EUA and ESC request Commission approval with respect to the reorganization and centralization of certain service and management functions (the ''Reorganization''). The Reorganization is designed to consolidate and restructure operations in order to allow more flexibility in the allocation of management and supervisory resources throughout the System Companies.

EUA expects to realize a number of benefits from the Reorganization, such as increased efficiencies and synergies through the elimination of previously duplicated functions. It expects these efficiencies to translate into a reduction in the rate of growth in operating and maintenance costs of the Operating Companies.

Organizationally, the Reorganization does not involve the formation of new entities and will not require utility assets to be transferred among System Companies. In addition, the Reorganization does not require the writedown of any rate base assets. Approximately 95 employees of the System Companies will be transferred to ESC.

Central and South West Corporation (70–8707)

Central and South West Corporation (''CSW''), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and Rule 54 thereunder.

By prior Commission orders dated October 24, 1978 and December 9, 1980 (HCAR Nos. 20742 and 21833, respectively), CSW was authorized to issue and sell a total aggregate number of 4,000,000 shares of its common stock (''Common''), par value $3.50 per share, to the trustee of the Central and South West Thrift Plus, an employee benefit plan (''Thrift Plan'').

CSW now proposes to issue and sell up to 5,000,000 additional shares of its authorized and unissued Common, par value $3.50 per share, to the trustee of the Thrift Plan. CSW Common will be sold to the trustee at market price.

Under the Thrift Plan, last amended in December 1994, participants may contribute up to 12% of their annual compensation and, depending on length of service, CSW matches 50% or 75% of each participant's contribution up to a maximum 6% of the employee's annual compensation. Employee contributions and the matching CSW contribution are vested at the employee's option in any one or more of five Thrift Plan investment options in 1% increments.

The Thrift Plan trustee, pursuant to written direction from each participant, invests the funds held in the employee's Thrift Plan account in any of the following investment options: (1) The Company Stock Option Plan (''Stock Option''); (2) the Fixed Income Option (''Fixed Income Option''); (3) the Capital Appreciation Option (''Capital Appreciation Option''); (4) the Growth and Income Option (''Growth and Income Option''); and (5) the Asset Allocation Option (''Asset Allocation Option''). Amounts invested in the Stock Option are used to purchase shares of CSW Common; amounts invested in the Fixed Income Option are used to purchase guaranteed investment contracts or other fixed income securities; amounts invested in the Capital Appreciation Option are invested in mutual funds that have a goal of long-term growth with no emphasis on current income; amounts invested in the Growth and Income Option are invested in mutual funds that have a goal of both growth and current income; and amounts invested in the Asset Allocation Option are invested primarily in mutual funds that have a goal of maintaining a balanced portfolio comprised primarily of equity investments.

The Thrift Plan trustee presently purchases shares of CSW Common in the open market for the Stock Option, although the trustee, in his or her discretion, may purchase CSW Common from any source, including CSW. CSW cannot require the trustee to purchase Common from CSW, but it is expected that the trustee will elect to purchase shares directly from CSW rather than in the open market, and thus avoid paying brokerage fees or commissions.

CSW will use the proceeds from the sale of Common to the trustee for general corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25509 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21402; 811–1624]

Smith Barney Equity Funds, Inc.; Application for Deregistration

October 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (''Act'').

APPLICANT: Smith Barney Equity Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on June 28, 1995, and amended on September 19, 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 October 31, 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 such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 942–0583, or C. David Messman, Branch Chief, at (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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, an open-end diversified management investment company, is organized as a Maryland corporation. On March 20, 1968, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act and registered under section 8(b) of the Act by filing a registration statement on Form N–8B–1. Applicant also filed a registration statement on Form S–5 under the Securities Act of 1933 to register an indefinite number of shares of common stock. This registration statement became effective on August 6, 1968, and applicant's initial public offering commenced on or about that date.

2. At a meeting held on October 29, 1993, applicant's Board of Directors (''Board'') approved the terms of an Agreement and Plan of Reorganization (''Plan'') between applicant and the Income and Growth Portfolio (''Portfolio''), a series of Smith Barney Funds, Inc. The Plan provided for the transfer of all assets and disclosed liabilities of applicant to the Portfolio in exchange for shares of Classes A and B of the Portfolio. The Board approved the Plan because it determined that the proposed reorganization would provide certain benefits to shareholders. In reaching this determination, the Board considered: (a) The terms and conditions of the reorganization; (b) the savings in expenses borne by shareholders; (c) the fact that the reorganization will be effected as a tax-free reorganization; (d) the comparative investment performance of the funds; (e) the advantages of eliminating the duplication inherent in marketing two

funds with similar investment objectives; and (f) the fact that the costs of the reorganization will be borne by applicant's investment adviser, Smith Barney Advisers, Inc. (''Manager'').

3. Applicant and the Portfolio were both advised by the Manager. Applicant therefore relied on the exemption provided by rule 17a–8 under the Act to effect the transaction.[1] Consequently, the Board determined, in accordance with rule 17a–8, that the proposed transaction was advisable and in the best interest of applicant's shareholders, and that the interests of applicant's existing shareholders would not be diluted as a result of the transaction.

4. Applicant solicited proxies pursuant to a proxy statement dated January 14, 1994, which was filed with the Commission and mailed to shareholders. On February 24, 1994, applicant's shareholders voted to approve the Plan.

5. As of March 3, 1994, applicant had 5,963,203 outstanding Class A shares, and 41,567 outstanding Class B shares, with net asset values of $14.71 and $14.68 per share, respectively. On that date, applicant's aggregate net assets amounted to $88,308,192.

6. On March 4, 1994, all of applicant's assets and disclosed liabilities were transferred to the Portfolio in exchange for shares of Class A and Class B of the Portfolio. These shares subsequently were distributed to shareholders of applicant's respective classes *pro rata* in an amount equal to the value of their interests in applicant.

7. All expenses associated with the Plan, including the costs of preparing, printing, and mailing the related proxy material to applicant's shareholders, related legal fees, and governmental filing fees, were paid by the Manager.

8. At the time of the application, applicant had no shareholders, assets, or liabilities, nor was applicant a party to any litigation or administrative proceeding. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

9. Applicant filed Articles of Transfer with the Maryland Department of Assessments and Taxation, which became effective on March 14, 1994. Applicant intends to file articles of dissolution upon receipt of the order requested by this application.

[1] Rule 17a–8 provides relief from the affiliated transaction prohibition of section 17(a) of the Act for a merger of investment companies that may be affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25505 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21403; File No. 812–9634]

United Companies Life Insurance Company, et al.

October 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or the ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: United Companies Life Insurance Company (''United Life''), United Companies Separate Account One (the ''Account''), and United Variable Services, Inc. (''United Variable'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemption from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting United Life to deduct from the assets of the Account, or from the assets of certain separate accounts that may be established by United Life in the future to support certain variable annuity contracts and certificates issued by United Life (the ''Other Accounts'', collectively, with the Account, the ''Accounts''), the mortality and expense risk charge imposed under certain variable annuity contracts and certificates issued by United Life (the ''Existing Contracts'') and under any other variable annuity contracts and certificates issued by United Life which are substantially similar in all material respects to the Existing Contracts and are offered through any of the Accounts (the ''Other Contracts'', together, with the Existing Contracts, the ''Contracts'').

FILING DATE: The application was filed on June 16, 1995 and amended and restated on August 17, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on October 31, 1995 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: Judith A. Hasenauer, Blazzard, Grodd & Hasenauer, P.C., 943 Post Road East, P.O. Box 5108, Westport, Connecticut 06881.

FOR FURTHER INFORMATION CONTRACT: Barbara J. Whisler, Senior Counsel, or Wendy Friedlander, Deputy Chief, Both at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicant's Representations

1. United Life, a stock life insurance company domiciled in Louisiana, is a wholly owned subsidiary of United Companies Financial Corporation. The Account, established as a segregated asset account of United Life on November 2, 1994 under Louisiana law, will fund the Existing Contracts issued by United Life. The Account is, and the Other Accounts will be, registered with the Commission as a unit investment trust.

2. United Variable will serve as the distributor of the Existing Contracts. United Variable, a wholly owned subsidiary of United Life, is registered as a broker dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

3. The Accounts are comprised of subaccounts (the ''Subaccounts''). The assets of each Subaccount initially will be invested in a corresponding portfolio of one of seven investment companies (the ''Funds''). Currently, the Funds have eleven portfolios available to the subaccounts for investment. Applicants state that the number and identity of the available Funds and the funds' investment portfolios may change.

4. The Existing Contracts are combination variable deferred fixed and/or market value adjusted (''MVA'') annuity contracts and certificates issued in connection with retirement plans which may qualify for favorable tax treatment under the Internal Revenue Code of 1986, as amended. The Existing Contracts described in the application are of two types: the ''10 Year Contract'' and the ''7 Year Contract.'' The 10 Year Contracts and the 7 Year Contracts will be offered in different markets, and

differ as to the charges imposed and the death benefits provided. The minimum initial premium, for both the 7 and the 10 Year Contracts is $5,000 except for qualified contracts for which the minimum initial premium is $2,000. The minimum for subsequent premiums is $500, or, if the automatic premium check option is elected, $100.

5. The Existing Contracts provide for certain guaranteed death benefits during the accumulation period. Applicants state that, in states where the death benefit endorsement is approved, the death benefit for the 10 Year Contracts will be the Contract value in the fixed account and in the MVA account plus the greatest of (a), (b) or (c) where:

(a) Is the Contract value in the Account as of the end of the valuation period during which United Life receives due proof of death and an election of payment;

(b) Is the purchase payments allocated to the Account, less any withdrawals and transfers from the Account and any related contingent deferred sales charge and transfer fees (the ''Net Purchase Payments''), accumulated at 6% annually up to the first Contract anniversary after the contract owner attains age 75, to a maximum of two times the Net Purchase Payments;

(c) Is the highest reset value up to the date of death. The reset value is equal to the Contract value in the Account on each 10th Contract anniversary prior to the Contract owner attaining age 85, plus purchase payments made after such Contract anniversary and allocated to the Account after such anniversary and any related contingent deferred sales charges and transfer fees.

6. Applicants state that, in states where the death benefit endorsement is approved, the death benefit for the 7 Year Contracts will be the Contract value in the fixed account and in the MVA account plus the greatest of (a), (b) or (c) where:

(a) Is the owner's Contract value in the Account as of the end of the valuation period during which United Life receives due proof of death and an election of payment;

(b) Is the purchase payments allocated to the Account, less any withdrawals and transfers from the Account and any related contingent differed sales charge and transfer fees, accumulated at 4% annually up to the first anniversary after the owner attains age 75;

(c) Is the highest reset value up to the date of death. The reset value is equal to the owner's Contract value in the Account on each anniversary prior to the owner attaining age 80 plus purchase payments made after such anniversary and allocated to the Account less any withdrawals and transfers from the Account and any related contingent deferred sales charges and transfer fees.

7. In states where the death benefit endorsement is not approved, the death benefit for the Existing Contracts during the accumulation period will be the greater of: (a) the purchase payments, less any withdrawals and related contingent deferred sales charges; or (b) the owner's contract value determined as of the end of the valuation period during which United Life receives due proof of death and an election of payment.

8. For the Existing Contracts, United Life imposes an annual administrative charge of .15% of the average daily net asset value of each subaccount of the Account. Applicants state that the annual administrative charge partially compensates United Life for expenses incurred in establishing and maintaining the contracts and the Account. Applicants state that United Life does not intend to profit from this charge and that the charge will be reduced to the extent that the charge is in excess of the amount necessary to reimburse United Life for its administrative expenses.

9. For the 10 Year Contracts, United Life deducts a contract and certificate maintenance charge of $30 each Contract year from the Contract value. Applicants state that the charge is designed to reimburse United Life for expenses relating to the maintenance of the Contracts. If a Contract is surrendered on other than a Contract anniversary, the full charge will be deducted at the time of surrender. No charge is deducted during the annuity period. Applicants state that this charge has been set at a level so that, when considered in conjunction with the .15% annual administrative charge, United Life will not make a profit from the charges assessed for administration. The contract and certificate maintenance charge is not assessed against the 7 Year Contracts. Applicants state that they are relying on Rule 26a–1 under the 1940 Act with respect to the administrative charge and the contract and certificate maintenance charge.

10. For the 10 Year Contracts, a contingent deferred sales charge (the ''Sales Charge'') of up to 8.5% will be assessed by United Life upon withdrawal of a portion of the Account's value or upon surrender of the Contract within the first ten years of the Contract. The Sales Charge is calculated at the time of withdrawal and is deducted from the balance remaining in the Account after withdrawal. The percentage declines depending upon how many years have passed since the withdrawn premium was originally made by the Contract owner. For the 7 Year Contracts, the Sales Charge may be up to 7% and will be assessed by United Life upon withdrawal of a portion of the Account's value or upon surrender of the Contract within the first seven years of the Contract.

11. For the 10 Year Contracts, United Life will impose a daily charge equal to an annual effective rate of 1.52% of the value of the net assets of the Account to compensate United Life for assuming certain mortality and expense risks in connection with the 10 Year Contracts. Applicants state that approximately .80% of the 1.52% charge is attributable to mortality risk, approximately .45% is attributable to expense risk and approximately .27% is attributable to the enhanced death benefit. For assuming certain mortality and expense risks in connection with the 7 Year Contracts, United Life will impose a daily charge equal to an annual effective rate of 1.45%. Applicants state that approximately .80% of the 1.45% charge is attributable to mortality risk, approximately .45% is attributable to expense risk and approximately .20% is attributable to the enhanced death benefit. The mortality and expense risk charges for both the 10 Year Contracts and the 7 Year Contracts are guaranteed not to increase. If the mortality and expense risk charge is insufficient to cover actual costs of the risks assumed, United Life will bear the loss. Conversely, if the charge exceeds costs, this excess will be profit to United Life and will be available for any corporate purpose, including payment of expenses relating to the distribution of the Contracts. Applicants state that United Life expects a profit from the mortality and expense risk charges.

12. Applicants state that the mortality risk borne by United Life arises from: (a) The contractual obligation of United Life to make annuity payments regardless of how long all annuitants or any individual annuitant may live; and (b) the guarantee of annuity purchase rates for the annuity options under the Contracts. Additionally, Applicants state that United Life bears a mortality risk with respect to the death benefit and with respect to the waiver of the Sales Charge where premiums have been held less than 10 Contract years of the 10 Year Contracts and less than 7 Contract years for the 7 Year Contracts. Applicants state that the expense risk that the administrative charges assessed under the Contracts may be insufficient to cover actual administrative expenses incurred by United Life.

13. Currently, United Life permits twelve transfers to be made each Contract year among the subaccounts, the fixed account and the MVA account without charge. For each transfer in excess of the number of free transfers permitted, United Life will deduct, from the amount transferred, a transfer fee

equal to the lesser of $25 or 2% of the amount transferred. Applicants state that the transfer fee is at cost, with no anticipation of profit to United Life.

14. Applicants state that premium taxes relating to the Contracts may be deducted when incurred from premium payments or Account value. Applicants state that premium taxes generally range from 0% to 4% and that it is the practice of United Life to pay such taxes when they become due and payable to the states.

Applicants' Legal Analysis and Conditions

1. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act in connection with Applicants' assessment of the daily charge for the mortality and expense risks under the Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

3. Applicants assert that the charges for mortality and expense risks for both the 7 and the 10 Year Contracts are reasonable in relation to the risks assumed by United Life under the Contracts.

4. Applicants represent that the mortality and expense risk charges are within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon Applicants' analysis of the mortality risks taking into consideration such factors as: the guaranteed annuity purchase rates; the expense risks; the estimated present and future costs for certain product features; and the industry practice with respect to comparable variable annuity contracts. Applicants represent that United Life will maintain at its principal office, available to the Commission, a memorandum setting forth in detail the products analyzed and the methodology and the results of this analysis.

5. Applicants further represent that, before relying on the exemptive relief requested in the application for the Other Contracts, Applicants will determine that any mortality and expense risk charges under the Other Contracts are reasonable in amount as determined by industry practice with respect to comparable annuity products and/or reasonable in relation to the risks assumed by United Life. Applicants represent that United Life will maintain a memorandum setting forth the basis for such conclusion with respect to the Other Contracts and that the memorandum will be available to the Commission upon request.

6. Applicants state that, in determining that the portions of the mortality and expense risk charges attributable under the 10 Year Contracts and the 7 Year Contracts to the enhanced death benefit are reasonable in relation to the benefits provided and are within the range of industry practice for comparable benefits, United Life ran a large number of computer-generated trials at various issue ages to determine the cost of the benefit provided. In running the trials, Applicants state that the following methodology was used: (a) Hypothetical asset returns were projected using generally accepted actuarial simulation methods; (b) for each asset return pattern generated, hypothetical accumulated values were calculated by applying the projected asset returns to the initial value in a hypothetical account; and (c) the amount of the enhanced death benefit payable in the event of a hypothetical owner's death was compared to the Contract value for each year of each such trial. By analyzing the results of the trials, an actuarial equivalent cost factor for the benefit was derived. United Life determined from the results of the trials that the charge of .27% for 10 Year Contracts and .20% for 7 Year Contracts would be reasonable charges for the enhanced death benefits.

7. Applicants represent that United Life will maintain at it principal office and available to the Commission a memorandum setting forth in detail the methodology used in determining that the enhanced death benefit charges in each product are reasonable in relation to the benefits provided and are within the range of industry practice for comparable benefits. Before relying on the exemptive relief requested in the application for the Other Contracts, Applicants represent that they will determine that any portion of the mortality and expense risk charge attributable to enhanced death benefit charges under the Other Contracts is reasonable in relation to the related risks assumed by United Life. Applicants further represent that United Life will maintain and make available to the Commission upon request a memorandum setting forth in detail the methodology used in making that determination with respect to the Other Accounts.

8. Applicants acknowledge that the Sales Charge will likely be insufficient to cover all costs relating to the distribution of the Contracts. To the extent distribution costs are not covered by the Sales Charge, United Life will recover its distribution costs from the assets of the general account. These assets may include that portion of the mortality and expense risk charge which is profit to United Life. Applicants represent that United Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be maintained by United Life at its principal office and will be made available to the Commission. Applicants also represent that, before relying on the exemptive relief requested in the application for the Other Contracts and the Other Accounts, the Applicants will determine that there is a reasonable likelihood that the distribution financing arrangement will benefit the Accounts and the investors in those Accounts. Applicants represent that United Life will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

9. United Life also represents that the Accounts will invest only in open-end management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by either the company's board of directors or the board of trustees, as applicable, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(1) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25506 Filed 10–13–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request an extension for a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before December 15, 1995.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Management Analyst, Small Business Administration, 409 3rd Street, SW., Suite 5000, Washington, DC 20416. Phone Number: 202–205–6629. Copies of this collection can also be obtained.

SUPPLEMENTARY INFORMATION:

Title: Nomination for the Small Business Prime Contractor of the Year Award and Nomination for the Small Business Sub-Contractor of the Year Award.

OMB Control Number: 3245–0096.

Expiration Date of Approval: January 31, 1996.

Type of Request: Extension of a currently approved information collection.

Description of Respondents: Small businesses.

Burden Per Response: 4 hours.

Annual Responses: 363.

Annual Burden: 1,452.

Comments: Send all comments regarding this information collection to Lou Emma Jones, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416. Phone Number: 202–205–6460.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Georgia Greene,

Chief, Administrative Information Branch.

[FR Doc. 95–25591 Filed 10–13–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Notice of Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS–109, implemented by Regulation ER–1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 95–7–49, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning October 1, 1995, we have projected non-fuel costs based on the year ended June 30, 1995 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 95–10–8 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic—1.0727
Western Hemisphere—1.0236
Pacific—1.2106

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: October 5, 1995.

Mark L. Gerchick,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–25597 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–62–P

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 95–7–48 established the currently effective two-month SFFL applicable through September 30, 1995.

In establishing the SFFL for the two-month period beginning October 1, 1995, we have projected non-fuel costs based on the year ended June 30, 1995 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 95–10–9 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic—1.4010
Latin America—1.4087
Pacific—1.5058

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: October 5, 1995.

Mark L. Gerchick,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–25598 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Kenosha Regional Airport, Kenosha, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by The City of Kenosha for Kenosha Regional Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Kenosha Regional Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before March 25, 1996.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is September 27, 1995. The public comment period ends November 27, 1995.

FOR FURTHER INFORMATION CONTACT: John Michael Dougherty, Federal Aviation Administration, Airports District Office, room 102, 6020 28th Avenue South, Minneapolis, Minnesota 55450, (612) 725–4222. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Kenosha Regional Airport are in compliance with applicable requirements of part 150, effective September 27, 1995. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before March 25, 1996. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The City of Kenosha submitted to the FAA on December 21, 1994, noise exposure maps, descriptions and other documentation which were produced during the FAR part 150 Noise Compatibility Study from April 1992 to December 1994. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by The City of Kenosha. The specific maps under consideration are the 1992 existing Noise Exposure Map and the 1997 future Noise Exposure Map. The FAA has determined that these maps for Kenosha Regional Airport are in compliance with applicable requirements. This determination is effective on September 27, 1995. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 of through FAA's review of noise exposure maps. Therefore, the responsibility for the detail overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutory required consultation has been accomplished.

The FAA has formerly received the noise compatibility program for Kenosha Regional Airport, also effective on September 27, 1995. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproved of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 25, 1996.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, D.C. 20591
Federal Aviation Administration, Minneapolis Airports District Office, Room 102, 6020 28th Avenue South, Minneapolis Minnesota 55450
Office of the Airport Director, Kenosha Regional Airport, 9900 52nd Street, Kenosha, Wisconsin 53144
Wisconsin Bureau of Aeronautics, State Transportation Building, Room 701, 4802 Sheboygan Avenue, Madison, Wisconsin 53707

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Minneapolis, Minnesota, September 27, 1995.

Franklin D. Benson,

Manager, Minneapolis Airports District Office, FAA Great Lakes Region.

[FR Doc. 95–25585 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 186; Automatic Dependent Surveillance—Broadcast (ADS–B)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 186 meeting to be held November 1–2, 1995, beginning at 9 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Introductory Remarks/ Review of Meeting Agenda; (2) Review and Approval of Minutes of the Previous Meeting; (3) Report of Working Group Activities: a. Working Group 1 Report (Operations Working Group); b. Working Group 2 Report (Technical Working Group); (4) Discussion of SC–186 Terms of Reference; (5) Other Business; (6) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 10, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–25586 Filed 10–13–95; 8:45 am]

BILLING CODE 4810–13–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C., on October 31 and November 1, 1995, of the following debt management advisory committee:

Public Securities Association
Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff on October 31, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On November 1, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on October 31 and will be open to the public. The remaining sessions on October 31 and the committee's reporting session on November 1 will be closed to the public, pursuant to 5 U.S.C. App. 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: October 10, 1995.

John D. Hawke, Jr.,

Under Secretary (Domestic Finance).

[FR Doc. 95–25556 Filed 10–13–95; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Public Information Collection Requirements Request for Public Input; Application for Customs Approval/Accreditation to Commercial Gaugers and Commercial Laboratories

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Application for Customs Approval/Accreditation to Commercial Gaugers and Commercial Laboratories. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Customs Approval/Accreditation to Commercial Gaugers and Commercial Laboratories.

OMB Number: 1515–0155.

Form Number: N/A.

Abstract: This collection of information is required from individuals and businesses in establishing the applicant's credentials so that Customs can determine whether or not the applicant meets the requirements for accreditation and is qualified to analyze importations.

Current Actions: Section 613 of Public Law 103–182 (NAFTA Implementation Act) directs Customs to establish a procedure to accredit privately owned testing laboratories. The application and resulting fee collection procedures have been established to comply with the statute.

Type of Review: Revision.

Affected Public: Business or other for-profit institutions, Individuals or households.

Estimated Number of Respondents: 85.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25465 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Request for Public Input; Commercial Invoices

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Commercial Invoices. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Commercial Invoices.

OMB Number: 1515–0120.

Form Number: CF 7501.

Abstract: The collection of information on the Commercial Invoice is necessary for the proper assessment of Customs duties. The information which is supplied by the foreign shipper is used to ascertain the proper tariff classification and Customs valuation of imported merchandise.

Current Actions: There are no changes to this information collection. This submission is being submitted to extend the expiration date.

Type of review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 2,952.

Estimated Number of Responses: 9,000,000.

Estimated Time Per Respondent: 10 seconds.

Estimated Annual Burden Hours: 25,210.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25466 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements, Request for Public Input; Exportation of Self-Propelled Vehicles

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Exportation of Used Self-Propelled Vehicles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Exportation of Self-Propelled Vehicles.

OMB Number: 1515–0157.

Form Number: N/A.

Abstract: This collection of information is required to verify vehicle ownership of exporters for importation/exportation of vehicles in the United States. Any individual attempting to export such a vehicle to furnish documentation, to include the vehicle identification number as proof that the vehicle is lawfully owned by the exporter.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions, individuals or households.

Estimated Number of Respondents: 64,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 12,662.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25467 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements, Request for Public Input; Foreign Assemblers Declaration

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Foreign Assembler's Declaration (With Endorsement By The Importer). This request for comment is being made

pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Foreign Assembler's Declaration (With Endorsement By The Importer).

OMB Number: 1515–0088.

Form Number: N/A.

Abstract: This collection of information is required to substantiate a claim for duty-free treatment of U.S. fabricated components sent abroad for assembly and subsequently returned to the U.S.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions, Individuals or households.

Estimated Number of Respondents: 2,730.

Estimated Time Per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 283,469.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25468 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements, Request for Public Input; Harbor Maintenance Fee

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Harbor Maintenance Fee. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Harbor Maintenance Fee.

OMB Number: 1515–0158.

Form Number: N/A.

Abstract: The collection of information on the Harbor Maintenance Fee is used to certify that nonprofit organizations or cooperatives which own or finance cargo that is intended for use in humanitarian or developmental assistance overseas, are entitled to an exemption from the harbor maintenance fee.

Current Actions: A rule change (Public Law 100–647) included an exemption for nonprofit organizations or cooperatives which own or finance cargo are entitled to the exemption from payment.

Type of Review: Extension (with change).

Estimated Number of Respondents: 130.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 389.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25469 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements; Request for Public Input; Importer ID Import Record

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Importer ID Input Record. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other

Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Importer ID Input Record.

OMB Number: 1515–0191.

Form Number: CF–5106.

Abstract: This collection of information is required to establish bond coverage, release and entry of merchandise, liquidation, issuance of bills and refunds, and processing of drawback and FP&F actions.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 240.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 48.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25470 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Request for Public Input; Protest

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Importer's Protest. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Protest.

OMB Number: 1515–0056.

Form Number: CF 19.

Abstract: This collection of information is required information necessary to identify documents and statements in order to allow or deny the protest, and to advise protestant.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions, Individuals or households.

Estimated Number of Respondents: 3,700.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 23,432.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25471 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Request for Public Input; Importers of Merchandise Subject to Actual Use Provisions

AGENCY: U.S. Customs service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Importers of Merchandise Subject to Actual Use Provisions. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and way to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

In this document Customs is soliciting comments concerning the following information collection:

Title: Importers of Merchandise Subject to Actual Use Provisions.

OMB Number: 1515–0091.

Form Number: N/A.

Abstract: This collection of information is required to identify certain items that may be admitted duty-free such as farming implements, seed, potatoes, etc. providing the importer can prove these items were actually used as contemplated by law.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions, Individuals or households.

Estimated Number of Respondents: 12,000.

Estimated Time Per Respondent: 60 minutes.

Estimated Total Annual Burden Hours: 13,000.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25472 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements; Request for Public Input; Manufacturing Drawback and/or Certificates

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Manufacturing Drawback and/or Certificates. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(C)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Manufacturing Drawback and/or Certificates.

OMB Number: 1515–0148.

Form Number: CF 331.

Abstract: The collection of information on the Manufacturing Drawback Entry and/or Certificate is necessary for the proper filing, documentation and validation upon the exportation of articles manufactured or produced in the U.S. with the use of imported merchandise or domestic merchandise of the same kind and quality, with a percentage of the amount of duties paid on the merchandise to be refunded as drawback.

Current Actions: There are no changes to this information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 3,500.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 124,998.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25473 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements, Request for Public Input; Petroleum Refineries in Foreign Trade Subzones

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Petroleum Refineries in Foreign Trade Subzones. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(b)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the proposed information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Petroleum Refineries in Foreign Trade Subzones.

OMB Number: 1515–0189.

Form Number: N/A.

Abstract: The collection of information on the Petroleum Refineries in Foreign Trade Subzones is required information necessary to account for all admissions into, operations occurring within each phase of a refining operation, and for all withdrawals from said premises. The data is deemed necessary in order to protect the revenue.

Current Actions: A rule change (T.D. 95–35) added a new 19 CFR Part

146.91–96 governing the operations of crude petroleum refineries. This submission is being submitted to extend the expiration date.

Type of Review: Extension (with change).

Estimated Number of Respondents: 18.

Estimated Time Per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 37,440.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25474 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements; Request for Public Input; Proof of Use for Rates of Duty Dependent or Actual Use

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Proof of Use for Rates of Duty Dependent on Actual Use. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Proof of Use for Rates of Duty Dependent on Actual Use.

OMB Number: 1515–0109.

Form Number: N/A.

Abstract: This collection of information is required information necessary to identify documents and statements in order to allow or deny the protest, and to advise protestant.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions, Individuals or households.

Estimated Number of Respondents: 700.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 4,025.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25475 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements; Request for Public Input; Special Form of Entry of Articles for Exhibition

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of information collection; Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Special Form of Entry of Articles for Exhibition. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 4, 1995, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

In this document Customs is soliciting comments concerning the following information collection:

Title: Special Form of Entry of Articles for Exhibition.

OMB Number: 1515–0106.

Form Number: N/A.

Abstract: The collection of information on the Special form of Entry of Articles for Exhibition is necessary for the proper control of goods which enter through the borders of the United States. Goods are entered for exhibit free of duty under the legal authority of the Tariff Schedules of the United States.

Current Actions: There are no changes to this information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 35.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 467.

Dated: October 2, 1995.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 95–25476 Filed 10–13–95; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF VETERANS AFFAIRS (VA)

VA Research Realignment Advisory Committee, Notice of Establishment

As required by Section 9(a)(2) of the Federal Advisory Committee Act, U.S.C. (App. 1) 9(c), the VA hereby gives notice of the establishment of the Research Realignment Advisory Committee. VA has determined that this action is in the public interest.

The objectives of the Committee are to advise the Under Secretary for Health about a possible realignment in present research programs to ensure that VA research meets present and future healthcare needs. The Committee will review various options for restructuring research programs presently existing within the VA and will provide the Under Secretary for Health a report with recommendations for restructuring these programs.

The Committee membership will be selected on the basis of professional expertise in the various components of research and research administration. Committee members will also represent various constituencies served by VA research including Veteran Service Organizations and university-based academic communities. Some members will be selected from within VA to assure current policies and procedures are incorporated in the context of new recommendations developed by the Committee. Appointments will be for the duration of the Committee unless otherwise directed by the Secretary of Veterans Affairs. The Committee will be terminated by the end of fiscal year 1996.

The Designated Federal Official for the Committee is Timothy Gerrity, Ph.D., Deputy Director for Medical Research Service, (phone number: 202–565–4004).

Dated: October 11, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–25614 Filed 10–13–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 199

Monday, October 16, 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).

ASSASSINATION RECORDS REVIEW BOARD

DATE: October 23–24, 1995.

PLACE: Open Meeting, 600 E Street, NW, Room 205, Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

October 23, 10:00 a.m.: Open Meeting

1. Review and Accept Minutes of September 21 Open Meeting.
2. Update by a representative of the National Archives and Records Administration (NARA) on the President John F. Kennedy Assassination Records Collection at NARA.
3. Staff Briefings.
4. Other Business.

October 23, 11:00 a.m.: Closed Meeting

1. Review and Accept Minutes of Closed Meetings.
2. Review of Assassination Records.
3. Other Business.

October 24, 9:00 a.m.: Continuation of Closed Meeting

1. Review of Assassination Records.

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

General Counsel.

[FR Doc. 95–25689 Filed 10–12–95; 3:38 pm]

BILLING CODE 6118–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: October 26, 1995 at 2:00 p.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes, and
2. Panel Presentation by Invited Experts on Employment Discrimination Issues Affecting African Americans.

Closed Session

Litigation Authorization: General Counsel Recommendations

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This notice issued October 12, 1995.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 95–25756 Filed 10–12–95; 4:00 pm]

BILLING CODE 6750–06–M

TENNESSEE VALLEY AUTHORITY (MEETING NO. 1480)

TIME AND DATE: 10 a.m. (EDT), October 18, 1995.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on September 27, 1995.

New Business

A—Budget and Financing

A1. Fiscal Year 1995 Tax-Equivalent Payments.

C—Energy

C1. Delegation of authority to the Vice President, Fuel Supply and Engineering, to enter into a 5-year rail contract with CSX Transportation, Inc., for rail services to Bull Run Fossil Plant.

E—Real Property

E1. Abandonment of a portion of the Guntersville Dam-Cullman Transmission Line easement affecting approximately 0.08 acre in Cullman County, Alabama (Tract No. GDC–148).

F—Unclassified

F1. Filing of condemnation cases.

F2. Supplement to personal services Contract No. TV–76847T with Manpower Temporary Services.

Information Items

1. Sale of permanent easement affecting 0.25 acre and public auction sale of 0.56 acre of Sequoyah Park land located on Fort Loudoun Lake in Knox County, Tennessee (Tract Nos. XFL–124E and –125).
2. Supplement to Contract No. 92NLA–86916B with Bechtel Corporation for the labor and services for modification work at the Sequoyah Nuclear Plant.

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: October 11, 1995.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 95–25646 Filed 10–12–95; 9:20 am]

BILLING CODE 8120–08–M

Monday
October 16, 1995

Part II

The President

Presidental Determination No. 95–49 of September 28, 1995—Immigration Emergency Resulting From Alien Smuggling by Organized Crime

Federal Register
Vol. 60, No. 199
Monday, October 16, 1995

Presidential Documents

Title 3—

The President

Presidential Determination No. 95–49 of September 28, 1995

Immigration Emergency Resulting From Alien Smuggling by Organized Crime

Memorandum for the Attorney General

Recognizing that the smuggling of illegal aliens by international organized crime syndicates creates extraordinary concerns for United States law enforcement and immigration authorities, the Congress in 1994 appropriated $6,000,000 to the Immigration Emergency Fund to cover costs associated with repatriation of smuggled aliens.

As determined by the Congress, the repatriation of foreign nationals intercepted en route to the United States is an activity that is appropriate for reimbursement from the Immigration Emergency Fund.

Accordingly, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 404(b)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 note), I hereby:

Determine that an immigration emergency has been in existence and continues to exist with respect to the smuggling into the United States of illegal aliens by international organized crime syndicates; and

Direct that up to $6,000,000 appropriated by the Congress to the Immigration Emergency Fund be used to cover costs associated with repatriation of foreign nationals intercepted en route to the United States when it appears that such persons are being smuggled by international organized crime syndicates and to reimburse the State Department and international organizations for past and future costs incurred in association with this purpose.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish it in the Federal Register.

THE WHITE HOUSE,
Washington, September 28, 1995.

[FR Doc. 95–25759
Filed 10–12–95; 4:23 pm]
Billing code 4410–01–M

federal register

Monday
October 16, 1995

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 77

Objects Affecting Navigable Airspace; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 77

[Docket No. 26305; Notice No. 90–19A]

RIN 2120–AA09

Objects Affecting Navigable Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This supplemental notice proposes to amend the application of the Federal Aviation Regulations (FAR) part 77 obstruction standards as proposed in a previous Notice of Proposed Rulemaking (NPRM). NPRM 90–18, published August 3, 1990 (subsequently corrected to Notice No. 90–19), stated, in part, that FAA obstruction standards will be applied with reference to an existing airport facility or use as well as a planned facility or use, if a proposal for such a facility or use is on file with the FAA or with the appropriate military service on the date the Notice of proposed Construction or Alteration is filed. The NPRM also stated, in part, that FAA obstruction standards apply to the effect of proposed construction or alteration upon an airport if, at the time of filing of the notice of construction or alteration, that airport is a planned or proposed airport under construction that is the subject of a notice or proposal on file with the FAA. During the fact finding phase of an aeronautical study of a construction or alteration proposal, the FAA may solicit comments from all interested persons. Based on a U.S. Court of Appeals decision (*Greater Orlando Aviation Authority* v. *F.A.A.*, 939 F.2d 954 (11th Cir. 1991), hereinafter ''GOAA''), the FAA is proposing to amend the application of its obstruction standards to include consideration of proposals that are received before the end of the public comment period of the aeronautical study.

DATES: Comments must be received on or before November 30, 1995.

ADDRESSES: Comments on this proposal may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 26305, Notice No. 90–19A, 800 Independence Avenue, SW., Washington, DC 20591; or delivered in triplicate to: Federal Aviation Administration, Rules Docket, Room 915–G, 800 Independence Avenue, SW., Washington, DC. Comments delivered must be marked Docket No. 26305 and Notice No. 90–19A. The official docket may be examined in the Rules docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Janet Apple, Air Traffic Rules and Procedures Branch, Airspace-Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the 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 proposals. Comments relating to the overall regulatory, aeronautical, environmental, energy-related, federalism, or economic aspects of the proposals contained in this SNPRM are also invited. Comments should identify the regulatory docket number and notice number and be submitted in triplicate to the address listed above. All comments received on or before the specified closing date for comments will be considered by the administrator before taking action on the proposed amendments. The proposals contained in this SNPRM may be changed in light of comments received. All comments received will be available for examination by interested persons in the Rule 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. Commenter wishing the FAA to acknowledge receipt of their comments submitted in response to this SNPRM must include a pre-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 26305.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRM's

Any person may obtain a copy of this SNPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this SNPRM.

Persons interested in being placed on a mailing list for future NPRM's should request from the above office a copy of Advisory Circular (AC) No. 11–2A, ''Notice of Proposed Rulemaking Distribution System,'' which describes the application procedure.

Background

The authority and requirements of FAR part 77 are derived, in part, from 49 U.S.C. 44718. Section 44718 pertains to notice of construction or alteration of any structure that may affect the use of navigable airspace.

Section 44718 was amended by Public Law 100–223 (The Airport and Airway Safety and Capacity Expansion Act of 1987). Public Law 100–223 provided for, in part, the consideration of electromagnetic interference (EMI) effects on air navigation facilities and equipment or navigable airspace, and the consideration of the cumulative impact resulting from proposed construction or alteration. Public Law 100–223 emphasized the need to preserve navigable airspace and airport traffic capacity at public use airports. In response to Public Law 100–223, the FAA published a notice of proposed rulemaking (NPRM) in the Federal Register on August 3, 1990, Notice No. 90–18, 55 FR 31722; corrected 55 FR 32999, August 13, 1990; 55FR 35152, August 28, 1990; and 55 FR 37287, September 10, 1990. The proposals contained in Notice No. 90–18, corrected to an hereafter referred to as 90–19, were based primarily on the amendments to section 44718 and recommended changes to part 77 developed by a joint government and industry task group.

The FAA received over 60 comments on the proposals presented in Notice No. 90–19. This SNPRM does not reopen the proposals contained in Notice No. 90–19 or request further comments on those proposals. The comments to Notice No. 90–19 will not be discussed in this SNPRM but will, along with comments to this SNPRM, be considered in any subsequent final rulemaking action regarding part 77.

Currently, part 77 requires sponsors to submit notice to the FAA at least 30 days before any proposed construction or alteration that exceeds certain notice criteria. The FAA studies the construction or alteration proposal to determine its aeronautical effect on the safe and efficient use of navigable airspace. The study includes the consideration of the proposal's aeronautical effect on any existing or planned public-use or military airports, air navigation facilities, procedures, or other proposals ‘‘on file with the FAA.’’ A proposal submitted to the FAA for consideration is referred to as a plan or notice ‘‘on file with the FAA,’’ or ‘‘on file with an appropriate military service’’ if the plan or notice relates to a military airport.

The United States Court of Appeals for the Eleventh Circuit issued a decision that affects the longstanding FAA policy and practice concerning the consideration given to plans on file with the FAA, or on file with an appropriate military service. Currently, FAA obstruction standards are applied with reference to an existing airport facility or use as well as a planned facility or use, if a proposal for such a facility or use is on file with the FAA or with the appropriate military service on the date the Notice of Proposed Construction or Alternation is filed. During the fact finding phase of an aeronautical study, the FAA may solicit comments from all interested persons. Based upon the GOAA decision, the FAA is proposing to amend the application of its obstruction standards to include consideration of any proposal received before the end of the public comment period of the aeronautical study for the construction or alternation. Additionally, this SNPRM addresses those concerns expressed by Guy Gannett Publishing Co.’s Petition for Rulemaking to Docket No. 26305, Notice No. 90–18, based on GOAA.

The Proposal

The FAA proposes to amend certain sections of part 77, as proposed in Notice No. 90–19, by considering the effect that proposals received before the end of the public comment period of an aeronautical study for a construction or alteration proposal would have on the subject proposed. The FAA is also proposing to amend the proposed FAR section 77.2, section 77.15 paragraphs (a)(5)(ii) and (a)(6)(ii), section 77.23 paragraphs (a) and (c)(2), section 77.35 paragraph (a)(2), and section 77.36 paragraph (b)(1), by deleting any references regarding ‘‘notices or proposals on file with the FAA’’ (or appropriate military service). These proposed changes are in response to GOAA, where the U.S. Court of Appeals for the Eleventh Circuit held that the FAA must consider any proposal it receives before the end of the public comment period of an aeronautical study of a construction or alteration proposal.

Paperwork Reduction Act

Information collection requirements for part 77 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0001. The FAA has determined that the proposals contained in this notice, if adopted, would not significantly affect the information collection reporting requirements of part 77.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The results are summarized in this section. For more detailed economic information, see the full regulatory evaluation contained in the docket.

This evaluation examines the costs and benefits of a Supplemental Notice of Proposed Rulemaking (SNPRM) to amend FAR part 77—Objects Affecting Navigable Airspace. Part 77 of the FAR, adopted on December 12, 1962, establishes standards for determining obstructions in navigable airspace; sets forth the requirements for notice to the Administrator of certain proposed construction or alteration; and provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace.

This proposed rule would amend the application of part 77 obstruction standards to include consideration of any proposal that is received before the end of the public comment period for an aeronautical study of a proposed construction or alteration. Presently, part 77 obstruction standards apply to existing or planned public-use or military airports, alterations of public-use or military airports, aeronautical facilities, procedures, and other proposals on file with the FAA (or with the appropriate military service if the proposal relates to a military airport) on or before the date the FAA receives notice of a construction or alteration proposal that is the subject of an aeronautical study. Therefore, the proposed rule has the potential for increasing the scope and complexity of certain aeronautical studies conducted by the agency. However, the proposed rule would not result in any changes to FAA notice criteria. Consequently, the total number of notices received by the FAA, pursuant to notice criteria under this part, would not be affected by this proposed rule.

In the Regulatory Evaluation Summary contained in the preamble of Notice No. 90–19, and the Draft Regulatory Evaluation, Initial Regulatory Flexibility Analysis, and Trade Impact Assessment (a copy of which is available for review under Docket No. 26305), the FAA determined that the costs associated with the requirements of part 77 are comprised of: (1) the cost to proponents associated with submitting notice to the FAA on Form 7460–1, Notice of Proposed Construction or Alteration; and (2) FAA administrative costs associated with evaluating notices of proposed construction and alteration.

This proposed rule would not impose additional costs on proponents for submitting notice on Form 7460–1 because part 77 notice criteria would be unaffected by this proposed rule. In addition, the available staff resources appear to be sufficient to handle any increase in the scope and complexity of some studies. The potential increase in workload would be regarded as routine. Therefore, the FAA has determined that the costs that can be directly attributed to this proposed rule would be negligible.

The primary benefit which results from this proposed rule would be the consideration given to other proposals received during the comment period of an aeronautical study of proposed construction or alteration. This should enhance the safe and efficient utilization of the navigable airspace.

Although the FAA is unable to quantify the benefits and costs of this proposal, the potential benefits to society are expected to outweigh the costs.

International Trade Impact Statement

This proposal would not impose a competitive disadvantage to either U.S. air carriers doing business abroad or foreign air carriers doing business in the United States because it would have no impact on either U.S. or foreign air carriers. This proposal would have no effect on the sale of foreign aviation products or services in the United States, nor would it affect the sale of United States aviation products or services in foreign countries.

Federalism Implications

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.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with the U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Practices (SARP) to the maximum extent practicable. For this notice, the FAA has determined that this proposal, if adopted, would not present any differences.

Conclusion

For the reasons discussed above, the FAA has determined that this proposed regulation is not a ''significant regulatory action'' under Executive Order 12866 and is not considered ''significant'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this proposal, if adopted, 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. An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination, has been placed in the docket. A copy may be obtained from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 77

Administrative practice and procedure, Airports, Airspace, Aviation safety, Federal Aviation Administration, Navigation (air), Reporting and recordkeeping requirements.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend part 77 of the Federal Aviation Regulations (14 CFR part 77) as proposed to be revised in the Federal Register of August 3, 1990 (55 FR 31722) as follows:

PART 77—OBJECTS AFFECTING NAVIGABLE AIRSPACE

1. The authority citation for part 77 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40114, 44502, 44701, 44718, 46101, 46102, 46104.

2. Proposed § 77.2 is amended by removing the definition of ''Planned or proposed airport for which notice is on file'' and adding a new definition in alphabetical order to read as follows:

§ 77.2 Definition of terms.

* * * * *

Planned or proposed aiport means an airport that is the subject of any of the following documents received by the FAA—

(1) Airport proposals submitted pursuant to the provisions of part 157 of this chapter;

(2) Airport Improvement Program requests for aid;

(3) Notices of existing airports where prior notice of the airport construction or alteration was not provided as required by part 157 of this chapter;

(4) Airport layout plans, including consideration of the effect of structures which may restrict control tower line-of-sight capability and effects upon electronic and visual aids to air navigation;

(5) Military proposals for military airports used only by the armed forces;

(6) Military proposals on joint-use (civil-military) airports;

(7) Proposed designation of precision instrument landing runways; and

(8) Completed airports site selection feasibility studies and recommendations.

* * * * *

3. Proposed § 77.15 is amended by revising paragraphs (a)(5)(ii) introductory text and (a)(6)(ii) to read as follows:

§ 77.15 Construction or alteration requiring notice.

* * * * *

(a) * * *

(5) * * *

(ii) An airport under construction, and—

* * * * *

(6) * * *

(ii) When available information indicates the construction or alteration might exceed a standard of subpart C of this part for an airport available for public use; or

* * * * *

4. Proposed § 77.23 is amended by revising paragraph (a), the introductory text of paragraph (c), and paragraph (c)(2) to read as follows:

§ 77.23 Scope.

(a) This subpart establishes standards for determining obstructions to air navigation relative to the safe and efficient utilization of navigable airspace by aircraft along with the operation of planned or existing air navigation facilities to include air navigation aids, airports, Federal Airways, instrument approach or departure procedures, and approved off-airway routes. Objects that are identified as obstructions under the standards described in this subpart are presumed to be hazards to air navigation unless an aeronautical study, made in accordance with Subpart D of this part, determines otherwise. Once an aeronautical study has been initiated, the standards listed in appendix A of this part, in addition to those listed in this subpart, shall be used to determine if the object being studied would constitute a hazard to air navigation. The standards in this subpart apply to existing and proposed manmade objects as well as to objects of natural growth and terrain. These standards will be applied with reference to an existing airport facility or use, and proposals received by the FAA, or the appropriate military service, before the end of the public comment period of an aeronautical study of a construction or alteration proposal.

* * * * *

(c) The standards in this subpart apply to the effect of a construction or alteration proposal upon an airport (including heliports, vertiports, and seaplane bases) if, before the end of the public comment period of an aeronautical study of that proposed construction or alteration, that airport is:

* * * * *

(2) A planned or proposed airport or an airport under construction, of which the FAA has received actual notice, and with the exception of military airports, where there is a clear indication the airport will be available for public use; or

* * * * *

5. Proposed § 77.35 is amended by revising paragraph (a)(2) to read as follows:

§ 77.35 Evaluating aeronautical effect.

(a) * * *

(2) In reference to the airport capacity of existing public-use airports and public-use airport development plans received before the end of the public comment period of an aeronautical study of a construction or alteration proposal;

* * * * *

6. Proposed § 77.36 is amended by revising paragraph (b)(1) to read as follows:

§ 77.36 Determinations.

* * * * *

(b) * * *

(1) Identify the effects of the proposed structure on VFR/IFR aeronautical departure/arrival operations, procedures, minimum flight altitudes,

and existing or proposed public-use airports, of which the FAA has received actual notice of, before the end of the public comment period on an aeronautical study of that proposed construction or alteration, and the extent of the physical and/or EMI effect on the operation of existing or proposed air navigation facilities or communication aids, including an explanation of whether the effect is substantial. The cumulative adverse effects that would result from the proposed construction or alteration will be considered in determining whether a substantial adverse effect is created. A finding of substantial adverse effect will result in the issuance of a determination of hazard to air navigation;

* * * * *

Issued in Washington, D.C. on October 6, 1995.

Harold W. Becker,

Acting Program Director, Air Traffic Rules and Procedures.

[FR Doc. 95–25404 Filed 10–13–95; 8:45 am]

BILLING CODE 4910–13–M

federal register

Monday
October 16, 1995

Part IV

Ounce of Prevention Council

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Ounce of Prevention Grant Program; Funding Availability; Notice

OUNCE OF PREVENTION COUNCIL

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3959–N–01]

Ounce of Prevention Grant Program; Notice of Funding Availability

AGENCIES: The Ounce of Prevention Council and the Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability.

SUMMARY: This Notice of Funding Availability (NOFA) announces the availability of up to $1.2 million of FY 1995 funds for grant assistance under the Ounce of Prevention Council's (the Council) Ounce of Prevention Grant Program. These funds will be awarded competitively, through a selection process conducted by HUD, after consultation with the Council, for projects that are targeted to Federally-designated urban and rural Empowerment Zone and Enterprise Community areas (EZ/EC). The grants will be awarded for projects that support local community-based efforts to improve the coordination and, to the extent possible, integration of youth crime and violence prevention programs and initiatives in these areas. Grants may not be used to fund new programs or services or to duplicate existing collaborative efforts; rather, these funds are to be used for projects that build upon, and add to, current efforts to coordinate and integrate youth crime and violence prevention programs and services.

DATES: In accordance with section 470 of the Housing and Urban-Rural Recovery Act of 1983 (Pub.L. 98–181), commencement of this demonstration program will await the conclusion of a 60-day period during which full consideration will be given to all public comments received during the 30-day public comment period. After the close of the 30-day public comment period, another Notice may be published setting forth revised requirements and procedures, if public comments received indicate that such changes are necessary. Comments received after the close of the 30-day public comment period, but before the end of an additional 30 days, will be considered for future program NOFAs.

Comment Due Date: November 15, 1995.

Application Due Date: The deadline date for submission of an application to HUD for funding under the Ounce of Prevention Grant Program is on or before 5:00 p.m., eastern standard time, December 15, 1995 at the HUD Headquarters office set forth below.

APPLICATION SUBMISSION: Application kits may be obtained by calling the Office of Economic Development, Department of Housing and Urban Development, at (202) 708–6355. (This is not a toll free number.) An original and two copies of the completed application for grant funds must be submitted. Applications must be received by the deadline set forth above at the following address: Processing and Control Unit, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh St., SW, Room 7255, Washington, DC 20410. Applications sent by facsimile (FAX) will not be accepted.

FOR FURTHER INFORMATION CONTACT: All questions should be directed to the Office of Economic Development, Department of Housing and Urban Development, Room 7136, 451 Seventh St. SW, Washington, DC 20410. Telephone: (202) 708–6355; TDD: 1–800–877–8339. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

The information collection requirements contained in this notice are being submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced in the Federal Register.

Part I. Purpose and Substantive Description

The Federal government currently supports a wide range of programs aimed at reducing youth crime and violence and promoting positive youth development by addressing specific social problems; i.e., drug abuse, gang activity, family violence, dropouts and teenage pregnancy. However, there is a growing recognition at both the Federal and local levels that communities must coordinate these independent programs to make a substantive positive impact on the lives of youth.

Many communities across the country have undertaken significant planning efforts relating to community improvement, public safety, youth development and delinquency prevention. In particular, the Omnibus Budget Reconciliation Act of 1993 (Pub.L. 103–66) created the Empowerment Zones and Enterprise Communities Program to promote cooperative, public-private efforts to restore economic opportunity to distressed neighborhoods. The 105 EZ/EC communities have already undertaken an intensive planning effort which brought together all the segments of the local community to determine the needs of the local community and develop a comprehensive plan to meet those needs. Each plan has a public safety component; many include a focus on youth crime and violence prevention.

This program is intended to build on the public safety and youth development efforts already underway in EZ/EC communities and link them with similar prevention efforts in surrounding neighborhoods. Grants will be awarded to support cooperative efforts aimed at coordinating and, where possible, integrating multiple prevention programs, initiatives and service delivery mechanisms and the organizations that direct them. This grant initiative is designed to demonstrate that local youth crime and violence prevention efforts must include not only comprehensive community planning, but also improved linkages among multiple prevention programs and initiatives, and must integrate services and their delivery, where possible.

A. Authority

The Ounce of Prevention Grant Program is authorized under Sections 30101 and 30102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13741) (the Act). Pursuant to Section 30101(a)(3) of this Act, the Council has delegated to HUD the authority to carry out this program in consultation with the Council.

B. Funding Availability

Under this program, HUD, after consultation with the Council, will award up to $1.2 million. Up to one-third of the funds will be awarded to rural EZ/EC designees and at least two-thirds to urban EZ/EC designees. Applicants may request no more than $150,000. HUD reserves the right to fund less than the full amount requested in any application.

As mandated by statute, grant recipients must provide 25 percent of the total project cost, either in cash or in-kind, fairly valued, as a non-Federal match.

HUD, after consultation with the Council, reserves the right to waive any part of the 25 percent matching requirement if it is satisfactorily determined that an applicant is unable financially to meet the requirement. Matching requirement waivers will be made only upon written request and under extreme circumstances. If applying for the waiver the applicant must submit three years of financial statements, when available, with a narrative documenting the inability to meet the matching requirement.

Funds made available under this NOFA shall not be used to supplant other funds (state, local, Federal or any other funds) that will or have been committed for the same purpose.

C. Definitions

Empowerment Zone/Enterprise Community (EZ/EC) means an urban or rural area so designated by the Secretary of HUD or the Secretary of Agriculture pursuant to sections 1391–1393 of the Omnibus Budget Reconciliation Act of 1993 (Pub.L. 103–66). For purposes of this NOFA, this term shall include Supplemental Empowerment Zones and Enhanced Enterprise Communities, as defined below.

Supplemental Empowerment Zone/ Enhanced Enterprise Community (SEZ/ EEC) means an urban area which was designated by the Secretary of HUD as either a Supplemental Empowerment Zone (SEZ) or an Enhanced Enterprise Community (EEC) and announced as such in the Notice of Designation printed in the Federal Register on February 23, 1995 (60 FR 10018).

Part II. Overview of Ounce of Prevention Grants

A. Maximum Awards

Under the competition established by this NOFA, the maximum award for an Ounce of Prevention Grant is $150,000.

B. Locational Considerations

Applications shall be geographically-based in particular neighborhoods or sections of municipalities or particular segments of rural areas.

A Federally-designated EZ/EC, or a portion of it, must be the primary focus of the proposed project, and its children and youth the prime beneficiaries of the proposed collaborative efforts; however, the target area may be enlarged beyond the EZ/EC area to respond to physical (e.g., highways) or governmental (e.g., school districts) boundaries and to permit cooperation among neighborhood-based entities, local agencies, and outside organizations.

C. Eligible Applicants

Applicants must be cities, counties, or other municipalities, Indian tribal governments, school boards, colleges and universities, private not-for-profit organizations, or consortia consisting of these entities. EZ/EC governing structures may apply if they meet this definition.

Applicants that are not an EZ/EC governing structure must obtain and submit a letter of endorsement from the local EZ/EC governing structure demonstrating its approval of, and willingness to collaborate in, the proposed project. In some cases, for example, where a governing structure is yet to be established, HUD, after consultation with the Council, may waive this requirement. Applicants requesting this waiver must submit a brief statement describing their inability to comply with this requirement.

Due to the purpose of this program, which is to strengthen cooperation and collaboration among community-based youth development, youth crime and violence prevention programs and organizations, applicants are strongly encouraged to work with other potential applicants in their area to develop a single application. In the event that more than one application is received from an EZ/EC area, priority will be given to the applicant that demonstrates greater compliance with the objectives of the program. No more than one grant will be awarded in any EZ/EC area.

D. Eligible Activities

Applicants can propose any combination of activities that lead to the improved coordination and integration of youth development and youth crime and violence prevention programs, initiatives and service delivery in the target area. Such activities may include the hiring of staff, increasing linkages, assessing prevention needs and developing a collaborative prevention action plan that responds to the needs of the target area.

The Council and HUD anticipate that funds will be used to coordinate and integrate, where possible, programs such as: summer and after-school education and recreational activities; mentoring, tutoring, and other programs involving participation of adult role models; programs assisting and promoting employability and job placement; and prevention and treatment programs to reduce substance abuse, child abuse and adolescent pregnancy, including outreach to at-risk families.

Funds may not be used for the delivery of new or existing programs and services. Rather, these grants are designed to provide additional support for the coordination and integration, where possible, of programs, initiatives and service delivery.

E. Grant Period

Any grants awarded must be expended for their appropriate activities within 18 months of the date of award.

Part III. Criteria for Review and Evaluation of the Grant Application

Grantees will be selected based on the qualifications, experience, or potential capabilities of the applicant and participating parties and the extent to which the proposed project would fulfill the purposes of this program. The criteria set forth below in paragraphs A and B will have equal weight for reviewing and evaluating grant applications.

In cases of equally weighted applications, priority will be given to applications from coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

A. Capability

Applications must include: (1) The applicant's experience, planning and management capabilities and the proposed manager/coordinator's qualifications to lead the proposed project; (2) a description of the applicant's current efforts that demonstrate the ability to collaborate with other organizations addressing public safety, youth development and youth crime and violence prevention, such as youth-serving organizations, schools, health and social service providers, employers, law enforcement professionals, local government, and residents of target areas, including young people; and (3) a description of matching funds with documentation, including letters of commitment.

B. Objectives

Applications must also include: (1) A concise project summary including the specific neighborhoods or sections of municipalities or rural areas that will be targeted and a description of the need for the project; (2) a description of how this project will complement and build upon the relevant goals (benchmarks) in the EZ/EC plan and other existing plans or coordinating efforts in the target area that deal with youth development, public safety and youth crime and violence prevention; (3) a description of the specific approaches to be used (including ways to reach out to other neighborhood-based programs and initiatives, especially Federally-funded efforts such as PACT, Weed and Seed, Safe Futures, CSAP Partnerships, and Youth Gang Prevention Consortia); the outcomes expected; and the process for determining how well the outcomes are being achieved; and (4) a description of the EZ/EC and other resources (public and private) that are currently dedicated to coordination and plan implementation and any other resources, in addition to the matching funds described under paragraph A, that will be used to support this project.

Part IV. Other Submission Requirements

In addition to the information requested in Part III of this notice, the applicant shall submit the following:

a. SF 424, Application for Federal Assistance.

b. The certification regarding lobbying required under 24 CFR part 87 (Appendix A).

c. Certification of a Drug-Free Workplace, in accordance with the Drug-Free Workplace Act of 1988, and HUD's regulations at 24 CFR part 24, subpart F.

d. A copy of the organization's IRS ruling providing tax-exempt status under section 501(c) of the IRS Code of 1986, as amended, if applicable.

e. Line-item budget reflecting the use of funds for the activities to be enhanced or coordinated;

f. Copy of an endorsement from the EZ/EC governing board, if a waiver has not been requested.

g. Evidence of commitments for the sources of matching dollars, if applicable.

Applications of no more than 20 pages should be submitted on 8.5″ × 11″ paper, with lines double-spaced and printed on only one side. All pages of the application shall be numbered sequentially.

Reports

Each grantee will be required to submit, in a form prescribed by HUD, after consultation with the Council, interim reports, and a final report within 90 days after the completion of the project. The final report shall describe the use of the grant funds and include a description and an analysis of the project, the approaches taken, the outcomes expected, and the results and benefits achieved.

Technical Deficiencies

To the extent permitted by law, HUD may advise applicants of technical deficiencies in the applications and permit them to be corrected. Due to the requirements of the HUD Reform Act, HUD staff is limited in the assistance it is permitted to provide regarding applications for grants. The assistance and advice that can be provided includes such activities as explaining and responding to questions about program regulation, identification of those parts of an application that need substantive improvement, the dates by which decisions will be made and procedures that are required to be performed to process an application. This term, however, does not include advising the applicant how to make those improvements.

In addition, any information published in the Federal Register and in this NOFA, and any information that has been made public through a means other than the Federal Register or NOFA, may be discussed.

Other Matters

Environmental Impact

It is HUD's determination that an environmental finding of no significant impact is not required under this NOFA. HUD environmental regulations (24 CFR 50.19) state certain activities assisted under HUD programs, such as the eligible activities in this NOFA, would not alter any conditions requiring environmental review or compliance with other Federal laws and authorities cited in Section 50.4.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Governments, or on the distribution of power and responsibilities between them and other levels of governments.

Executive Order 12606, the Family

The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the policies announced in the NOFA would not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. No significant change in existing HUD policies and programs will result from issuance of this NOFA, as those policies and programs relate to family concerns.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1990 (31 U.S.C. 1351) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Prohibition Against Advance Disclosure of Funding Decisions

HUD's regulations implementing section 103 of the HUD Reform Act are codified at 24 CFR part 4 and apply to the funding competition announced today. The requirements of part 4 continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4.

Any questions concerning the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh St. SW, Washington, DC 20410–3000. Telephone: (202) 708–3815 (voice/TTD). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Accountability in the Provision of HUD Assistance: Documentation and Public Access Requirements

HUD's regulation implementing section 102 of the HUD Reform Act is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 16, 1992 (57 FR 1942), following publication of the March 14, 1991 final rule, HUD published additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation, public access, and disclosure requirements of section 102. The requirements of section 102 are applicable to assistance awarded under this NOFA.

(i) Documentation and Public Access Requirements: HUD will ensure documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14 (a) and 12.16 (b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942) for further information on these requirements.

(ii) Disclosures: HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years.

Dated: October 11, 1995.

Kumiki Gibson,

Counsel to the Vice President.

Dated: October 11, 1995.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 95–25590 Filed 10–13–95; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 2288/P.L. 104–35

To amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of State plans for child and spousal support. (Oct. 12, 1995; 109 Stat. 294)

S. 895/P.L. 104–36

Small Business Lending Enhancement Act of 1995 (Oct. 12, 1995; 109 Stat. 295)

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CFR CHECKLIST

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 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
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)	(869–026–00006–9)	23.00	Jan. 1, 1995
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	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
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700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
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1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
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1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
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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
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1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
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10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
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11	(869–026–00034–4)	14.00	Jan. 1, 1995
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300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
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Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
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, 1995. 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, 1995. 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.

[8] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.