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June 17, 1996

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Three Sessions]

WHEN: June 18, 1996 at 9:00 am,
July 9, 1996 at 9:00 am, and
July 23, 1996 at 9:00 am.

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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Monday, June 17, 1996

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 10

Classification, Declassification, and Safeguarding of Classified Information

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This final rule removes the Department of Agriculture (hereinafter ''USDA'') regulation on classification, declassification, and safeguarding of classified information. This regulation is unnecessary because no requests to declassify documents have been made by the public since it was placed in the Federal Register on March 18, 1983. This action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Long, Jr., Acting Department Security Officer, Department of Agriculture, AG Box 9616, Washington, D.C. 20250–9616, telephone (202) 720–8313, FAX (202) 690–0681.

SUPPLEMENTARY INFORMATION: On April 17, 1995, the President signed Executive Order 12958, ''Classified National Security Information,'' which revoked Executive Order 12356 effective October 16, 1995. Executive Order 12958 requires publication in the Federal Register regulations regarding an agency program for classifying, safeguarding, and declassifying national security information that ''affect members of the public.'' We do not believe that publication is necessary because they do not affect members of the public. Since 1983, the only requests to review classified documents have come to us from other government departments or agencies. No requests have been received from the public. The removal of 7 CFR Part 10 eliminates a regulation which encompasses 6 pages of the CFR. The Acting Director of Human Resources Management has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation is being removed.

PART 10—CLASSIFICATION, DECLASSIFICATION, AND SAFEGUARDING CLASSIFIED INFORMATION

7 CFR Part 10 is removed.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96–15233 Filed 6–14–96; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 922

[Docket No. FV96–922–1IFR]

Apricots Grown in Designated Counties in Washington; Temporary Suspension of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule suspends, for the 1996 season only, the minimum grade requirements (Washington No. 1) currently in effect for fresh shipments of apricots grown in Washington. This change was recommended by the Washington Apricot Marketing Committee (committee), which works with the Department of Agriculture (Department) in administering the marketing order covering apricots grown in designated counties in Washington. This rule will enable handlers to ship more fruit in fresh market channels, taking into consideration the damage caused to Washington apricots by freezing temperatures during the growing season. This change is expected to increase returns to producers and to make more fresh apricots available to consumers.

DATES: This interim final rule is effective June 15, 1996. Comments which are received by July 17, 1996, will be considered prior to the issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456, Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724; or Britthany E. Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Marketing Order No. 922 [7 CFR Part 922], both as amended, regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the ''act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for

a hearing on the petition. After the hearing the Secretary would rule on the petition. The act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 handlers of Washington apricots who are subject to regulation under the order and approximately 400 producers in the regulated area. Small agricultural service firms, which includes handlers of Washington apricots, have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of Washington apricot handlers and producers may be classified as small entities.

Section 922.52 of the order authorizes the issuance of grade, size, quality, maturity, container markings, pack, and container regulations for any variety or varieties of apricots grown in any district or districts of the production area. Section 922.53 further authorizes the modification, suspension, or termination of regulations issued under § 922.52. Section 922.55 provides that whenever apricots are regulated pursuant to §§ 922.52 or 922.53, such apricots must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

Minimum grade, maturity, color, and size requirements for Washington apricots regulated under the order are specified in § 922.321 *Apricot Regulation* 21 [7 CFR 922.321]. Section 922.321 provides that no handler shall handle any container of apricots unless such apricots grade not less than Washington No. 1, except for shipments subject to exemption under the regulation. In addition, the section provides that the Moorpark variety in open containers must be generally well matured. Also, that section provides that, with the exception of exempt shipments, apricots must be at least reasonably uniform in color, and be at least 1⅝ inches in diameter, except for the Blenheim, Blenril, and Tilton varieties which must be at least 1¼ inches in diameter. Individual shipments of apricots are exempt from these requirements if sold for home use only, do not exceed 500 pounds net weight, and containers are stamped or marked with the words ''not for resale.''

This rule amends paragraph (a)(1) of § 922.321 by temporarily suspending the minimum grade requirements for fresh shipments of apricots for the 1996 season only. The grade requirements currently specified in § 922.321 will resume April 1, 1997, for 1997 and future seasons.

At its May 16, 1996, meeting, the committee unanimously recommended suspending the grade requirements for the 1996 season. The committee requested that this suspension be effective by June 15, the date shipments of the 1996 Washington apricot crop are expected to begin.

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington apricots which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

The committee reports that the apricot crop was severely damaged by several freezes last winter and early this spring. The severe weather conditions resulted in a high percentage of damage from russeting, scab spots, and other grade defects making it difficult for apricots to meet the minimum grade requirements of Washington No. 1. The committee estimates that only 2,300 tons of apricots will be shipped fresh during the 1996 season, even with the grade requirements suspended as requested. This amount is 52 percent of last season's fresh shipments of 4,452 tons and 46 percent of the five-year average of 4,965 tons.

This rule suspends only the grade requirements specified in § 922.321. Thus, the color and minimum size requirements for all varieties and the well matured requirements for the Moorpark variety will remain unchanged.

This rule will enable handlers to ship a larger portion of their crop to the fresh market this season, taking into account the abnormal growing conditions, than they would be allowed if the minimum grade requirements were not suspended. Suspension of the grade requirements for Washington apricots is intended to increase fresh shipments to meet consumer needs and improve returns to producers. It is the Department's view that the impact of this action upon producers and handlers, both large and small, will be beneficial because it will enable handlers to provide apricots consistent with 1996 season growing conditions. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevent material presented, the information and recommendation submitted by the committee, and other available information, it is found that suspending the minimum grade requirements, as set forth in this rule, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) This rule suspends the current grade requirements for Washington apricots; (2) this rule was unanimously recommended by the committee at an open public meeting and all interested persons had an opportunity to express their views and provide input; (3) Washington apricot handlers are aware of this rule and need no additional time to comply with the relaxed requirements; (4) this rule should be in effect by June 15, 1996, the date 1996 season shipments of the Washington apricot crop are expected to begin, and this action should apply to the entire season's shipments; and (5) this rule provides a 30-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 922

Marketing agreements, Apricots, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR Part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 922.321 is amended by revising paragraph (a)(1) to read as follows:

§ 922.321 Apricot Regulation 21.

(a) * * *

(1) *Minimum grade and maturity requirements.* Such apricots that grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That the grade requirement shall not apply to apricots handled from June 15, 1996, through March 31, 1997; *Provided further,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

* * * * *

Dated: June 12, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–15350 Filed 6–14–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 929

[Docket No. FV–96–929–1FR]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Change in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies language in the cranberry marketing order's rules and regulations to change the first date by which handlers must file their acquisition reports from February 5 to January 5 during each crop year. This rule will provide more useful production information to the cranberry industry at an earlier time and is based on a recommendation of the Cranberry Marketing Committee (Committee), which is responsible for local administration of the order.

EFFECTIVE DATE: This final rule becomes effective July 17, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kathleen M. Finn, Marketing Specialists, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456: telephone: (202) 720–1509, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 929 (7 CFR Part 929), as amended, regulating the handling of cranberries grown in 10 States, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary will rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 15 handlers of cranberries who are subject to regulation under the marketing order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. A majority of handlers and producers of cranberries may be classified as small entities.

This rule modifies the language in the order's rules and regulations to change the first date by which handlers must file their acquisition reports from February 5 to January 5. The committee unanimously recommended that the date be changed from February 5 to January 1. The Department proposed modifying the recommendation by requiring the first report to be filed by January 5 in order to allow sufficient time for the handlers to file the reports.

Section 929.62(b) of the cranberry marketing order provides authority to require each handler to file promptly with the committee a certified report as to the quantity of cranberries acquired during such period as may be specified. The fiscal period under the order is from September 1 of one year through August 31 of the following year. Section 929.105(b) of the order's rules and regulations prescribe that certified reports shall be filed by each handler to the committee not later than the 5th day of February, May, and August of each fiscal period and the 5th day of September of the succeeding fiscal period. Such report shall show the total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled from the beginning of the reporting period indicated through January 31, April 30, July 31, and August 31, respectively.

The committee recommended that the first acquisition report due to the committee on February 5 that shows the total quantity of cranberries the handler acquired through January 31 be changed to an earlier date. This will provide producers and handlers vital production information earlier in the season and allow them to plan accordingly. The order's reporting and recordkeeping requirements have not been amended since 1988. Handlers' techniques in gathering and recording acquisition data have progressed considerably over the last seven years. Handlers have indicated that they could provide the committee with an acquisition report prior to January 1 of the crop year.

Therefore, the committee recommended that section 929.105(b) be revised by changing the first reporting

due date from February 5 to January 1. As stated previously, the Department has modified this date from January 1 to January 5. The first acquisition report currently shows the total quantity of cranberries acquired and the total quantity of cranberries handled from the beginning of the reporting period through January 31. The committee also recommended that the January 31 date be changed to December 31 to make the report consistent with the new due date. In addition, the Department is modifying § 929.105(b) by listing each one of the due dates. This will make the section easier to understand as to when each report is due.

The proposed rule concerning this action was published in the April 22, 1996, Federal Register (78 FR 17586), with a 30-day comment period ending May 22, 1996. No comments were received.

There was one error in the regulatory text appearing in the proposed rule. In § 929.105(b)(2), the proposed rule indicated that the certified report due from handlers on January 5 show the quantities of cranberries and cranberry products held by the handler on February 1. The latter date should be January 1. This final rule corrects § 929.105(b)(2) accordingly.

Based on the above, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This rule modifies language in the cranberry marketing order's rules and regulations to change the first date by which handlers must file their acquisition reports from February 5 to January 5 during each crop year. This rule will provide more useful production information to the cranberry industry at an earlier time.

The information collection requirements contained in the referenced section have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and have been assigned OMB number 0581–0103.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Marketing agreements, Cranberries, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 929.105 is amended by revising paragraph (b) to read as follows:

§ 929.105 Reporting.

* * * * *

(b) Certified reports shall be filed with the committee, on a form provided by the committee, by each handler not later than January 5, May 5, and August 5 of each fiscal period and by September 5 of the succeeding fiscal period showing:

(1) The total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled from the beginning of the reporting period indicated through December 31, April 30, July 31, and August 31, respectively, and

(2) The respective quantities of cranberries and cranberry products held by the handler on January 1, May 1, August 1, and August 31 of each fiscal period.

Dated: June 10, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–15093 Filed 6–14–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1208

[FV–95–702FR]

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order—Postponement of Payment of Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes a rules and regulations subpart under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order). The Order is authorized under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993. This rule implements a provision of the Order concerning the postponement of the payment of assessments. This action establishes procedures for the postponement of the payment of assessments to the National PromoFlor Council.

EFFECTIVE DATE: June 18, 1996.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456, telephone (202) 720–9916.

SUPPLEMENTARY INFORMATION: This rule is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 [7 U.S.C. 6801 *et seq.*], hereinafter referred to as the Act, and the Order.

This rule has been issued in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 8 of the Act, a person subject to the order may file a petition with the Secretary stating that the order or any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Only those wholesale handlers, retail distribution centers, producers, and importers who have annual sales of $750,000 or more of cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and

assessed under the Order. There are approximately 900 wholesaler handlers, 150 importers, and 200 domestic producers who are qualified handlers.

The majority of these qualified handlers would be classified as small businesses. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5 million. Statistics reported by the National Agricultural Statistics Service show that 1994 sales at wholesale of domestic cut flowers and greens total approximately $559.6 million while the value of imports during 1994 was approximately $382 million. The leading States in the United States producing cut flowers and greens, by wholesale value, are California, which produces approximately 49 percent of the domestic crop, followed by Florida, Colorado, and Hawaii. Major countries exporting cut flowers and greens into the United States, by value, are Colombia, which accounts for approximately 60 percent, followed by The Netherlands, Mexico, and Costa Rica.

The Act and the Order provide for the postponement of assessments. This rule establishes procedures for the postponement of the payment of assessments to the Council, which lessens the regulatory impact of the Order on large and small businesses alike. Therefore, AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection requirements contained in the Order have been approved by the Office of Management and Budget (OMB) under OMB number 0581–0093 and have an expiration date of January 31, 1997.

Background

The Act authorized the Secretary of Agriculture (Secretary) to establish a national cut flowers and greens promotion and consumer information program. The program is funded by an assessment of ½ percent of gross sales of cut flowers and greens which is levied on qualified handlers. The program is administered by the National PromoFlor Council (Council) under the supervision of the Department of Agriculture (Department). Section 1208.55 of the Order provides for the postponement of assessments.

The Council met on September 11, 1995, and recommended that, in order for a request for the postponement of assessments to be granted, the requester should comply with the following: (1) Submit a written opinion from a Certified Public Accountant stating that the handler making the request is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when due and (2) submit copies of the last three (3) years' federal tax returns. The Council stated that these two requirements are needed to verify that the qualified handler is financially unable to make the payment of the assessments due and that the postponement of payment, if granted, complies with the requirements set forth in the Order. In addition, the requester should submit to the Council a completed application form (''Application for Postponement of Payment of PromoFlor Assessments'').

A proposed rule regarding the Council's recommendation was published in the Federal Register on November 27, 1995 [60 FR 58253]. That rule contained a proposed new subpart for rules and regulations under the Order. In addition, it proposed the establishment of procedures for the postponement of the payment of assessments to the Council.

The deadline for comments on the proposed rule was January 26, 1996. Two comments were received. One comment was received from the Council, and another comment was received from a greenhouse operator.

The Council commented that the proposal did not address the consequences if a qualified handler does not meet the 30-day deadline for requesting the postponement of the payment of assessments. The Council stated that it should not be required to consider requests that are made after the deadline. However, the rule already states that, for a request for postponement of assessments to be granted, the request must be in writing no later than 30 days after the assessments were due. Therefore, the Council can not consider any late requests.

The Council also commented that the qualified handler should be required to complete and sign a handler report for each month the assessments are owed or to list sales and assessments due for each month in the form of a signed statement. The second commentor also commented that the reporting requirement needs to be met so that the Council can track what is owed. The Department agrees that the qualified handler should file a qualified handler report for each month assessments are due even though the postponement of the payment of assessment has been granted and has revised the procedures accordingly.

In addition, the Council commented that it should not be required to audit a qualified handler who has gone through the postponement process. Section 1208.71 of the Order requires qualified handlers to maintain and make records available for inspection by agents of the Council or the Secretary. The Department believes that an audit of the books of the qualified handler requesting the postponement of the payment of assessments may be necessary in order to verify any information provided and, if necessary, pursue collection of past-due assessments. Therefore, the Department disagrees with this comment.

The Council further commented that the number of extensions for the postponement of the payment of assessments be limited to one. The second commentor stated that the postponement should be open ended. He commented that the business should not have to pay until it recovers or goes bankrupt.

The Department agrees that the postponement of the payment of assessments should not be indefinite. It is the purpose of these procedures to bring qualified handlers into compliance as soon as practicable after giving them the opportunity to recover from a financial difficulty. Accordingly, the comment recommending that the postponement period be open ended is denied, and the Council's comment on limiting extensions of the postponement periods is granted.

The proposal has been revised to state that one extension of the postponement of the payment of assessments may be granted covering the same period previously requested. The extension of the postponement may not exceed six (6) months. If an individual requests that another period be postponed, that person must file another application for the postponement of the payment of assessments of the second period. The qualified handler may request the postponement of the payment of assessments for a maximum of two periods only. Each period postponed could include a maximum of six (6) months. The payment of assessments for the second period of postponement, if granted, may not be extended. The payment period must not exceed the length of the postponement period. The payment period for the total assessments due, when an extension and a second period are granted, must begin within one (1) year after the first postponed month's assessments were originally due. However, these procedures are not intended to be

retroactive for those individuals who requested postponement of the payment of assessments before this rule becomes effective.

The Council will have the right to audit the records of those requesting an extension or those requesting more than one postponement period to verify the validity of the request(s). If it is determined that the qualified handler is capable of meeting the obligations of payment of assessments, the qualified handler will be given the opportunity to start paying the assessments. If the qualified handler refuses to pay the assessments due, the Council will refer the debt to the Department for collection after notifying the qualified handler.

The second commentor stated that the requirements for requesting the postponement of the payment of assessments should be simple, such as an officer of the company certifying that the company is not able to meet the terms of the payment of his vendors and that dividends are not being paid. Such statement could be provided by a Certified Public Accountant.

The Department believes that the procedures established by this final rule are reasonable and are not burdensome to a qualified handler that requests a postponement of the payment of assessments. Therefore, this comment is denied.

In addition, the second commentor stated that the Department should address producers' financial hardship due to imports of certain flowers. Although this issue may be cause of concern to certain producers and handlers, it is not relevant to this rulemaking.

In addition, to the changes described above, the Department has made a few editorial changes to the proposal in order to simplify the regulatory text.

This final rule provides the following:

Section 1208.100 will provide that the definitions for this subpart are the same as those prescribed in § 1208.1 through 1208.24 of the Order.

Section 1208.150 will provide for the postponement of the payment of assessments under certain circumstances. Section 1208.55 of the Order states that ''The Council may grant a postponement of an assessment under this subpart for any qualified handler that establishes that it is financially unable to make the payment * * *'' In addition, the Order establishes that the Council shall develop forms and procedures for a qualified handler to request and for the Council to grant the postponement of the payment of assessments.

Under these regulations, the period for which the initial postponement of the payment of assessments is requested may not exceed six (6) months. If the postponement is granted, the qualified handler will be exempt from paying assessments beginning with the first month for which the request for postponement is filed with the Council and for no more than six (6) months unless an extension is requested and granted by the Council. Only one extension may be granted for the postponement period. The qualified handler will be required to file monthly reports during the postponement period and any extension. The handler must provide a reason for the request as well as detailed information concerning the handler's name, address, telephone and fax numbers, the month(s) for which the request is made, the amount of assessments due or gross sales per month, the percent or amount of the outstanding debt to be paid by month after the postponement of payment is granted, and the starting and ending date for the payment.

The request must be made no later than 30 days after the first month's assessment of the requested postponement period is due. Applications postmarked after the 30-day deadline will not be considered by the Council. In addition, after the postponement period has concluded, the handler must pay the percentage or amount of the outstanding assessments agreed upon each month as well as any other assessments which are due. Assessments due after the initial postponement period is over will not be postponed further unless an extension of time to pay such assessment is granted. If an extension of time is requested, new documentation must be provided for the Council to determine whether to grant the request. The same procedures used for the initial postponement request must be followed in requesting an extension. The extension may not exceed six (6) months. In addition, a qualified handler may request a second period of postponement of the payment of the assessments of no more than six (6) months. The same procedures followed for requesting the first postponement period must be used. However, the second postponement period may not be extended. The qualified handler may request the postponement of the payment of the assessments for a maximum of two periods only. No additional postponements would be considered by the Council until the assessments owed for the first two periods have been paid.

The following example will serve to further explain and clarify this rule. If a qualified handler wants to postpone the payment of assessments due on cut flowers and greens handled during the months of January through June 1997, the request for the postponement must be filed with the Council's office no later than April 30, 1997. April 30 is 30 days after the assessments on cut flowers and greens handled during January 1997 would be due (March 31, 1997). If the request is granted, the handler would not have to pay assessments to the Council in the months of March through August 1997. The first payment on handlings during January through June 1997 would be due no later than September 30, 1997. Payments would be made pursuant to a schedule agreed upon between the handler and the Council.

If the same handler wants to extend the postponement period for an additional six (6) months, the request must be submitted to the Council's office no later than the date the first payment was due or, in this case, no later than September 30, 1997. If the extension is granted, the deadline for the first payment of the assessments on January through June 1997 handlings would be on March 31, 1998. Therefore, in March 1998, the qualified handler would be required to pay (1) the agreed upon amount of the assessments due on cut flowers and greens handled in January 1997 as well as (2) the total amount due in March 1998 for cut flowers and greens handled in January 1998.

If the qualified handler also wants to postpone the assessments due on cut flowers and greens handled during the months of July through December 1997, the handler must make that request no later than October 31, 1997, the date 30 days after the assessments on cut flowers and greens handled in July 1997 would be due. If the request is granted, the deadline for the first payment of the assessments on cut flowers and greens handled in July through December 1997 would be March 31, 1998. And, during March 1998, the handler would be required to pay (1) at least 50 percent of the assessments on cut flowers and greens handled in January 1997; (2) the entire assessments due on cut flowers and greens handled in July 1997; and (3) the total assessments due for cut flowers and greens handled in January 1998.

The Council may conduct an audit of the qualified handler's books and records at any time to determine whether the qualified handler will be unable to continue to operate if the handler is required to pay the assessments when due.

Any late payment will make the postponement null and all assessments due will need to be paid in their entirety

at that time. In addition, the Council agrees to forgo any late fee charges and interest for the duration of the postponement of the payment of assessments.

After consideration of all relevant material presented, it is found that this regulation, as set forth herein, tends to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This rule establishes rules and regulations in accordance with the provisions of the Act; (2) the Council has received requests for the postponement of the payment of assessments and needs rules to administer the postponement process; and (3) no useful purpose will be served in delaying the effective date until 30 days after publication of this final rule.

List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Cut flowers, Cut greens, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1208 is amended as follows:

PART 1208—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ORDER

1. The authority citation for 7 CFR Part 1208 continues to read as follows:

Authority: 7 U.S.C. 6801 *et seq.*

2. In Part 1208 a new Subpart B is added to read as follows:

Subpart B—Rules and Regulations

Definitions

Sec.
1208.100 Terms defined.

Assessments

1208.150 Procedures for postponement of assessments.

Subpart B—Rules and Regulations

Definitions

§ 1208.100 Terms defined.

Unless otherwise defined in this subpart, definitions or terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart A—Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order of this part.

Assessments

§ 1208.150 Procedures for postponement of collections.

(a) For a request for postponement of the payment of assessments to be granted, the qualified handler requesting such postponement must: Submit a written opinion from a Certified Public Accountant stating that the handler making the request is insolvent or will be unable to continue to operate if the handler is required to pay the assessments when due; and submit copies of the handler's last three (3) years' federal tax returns. The request must be in writing no later than 30 days after the assessment for the first month of the requested postponement period is due. Applications postmarked after the 30-day due date will not be considered by the Council. The qualified handler must file handler reports with the Council for each month during the postponement period. The postponement period may not exceed six (6) months unless an extension is requested and granted by the Council. Only one extension of up to six (6) months may be granted. Within the postponement period, the qualified handler will be exempt from paying assessments beginning with the first month for which the request for postponement is filed with the Council and for no more than six (6) months unless an extension is granted. The same procedures used for the initial request will be used to grant any extension. The written request must specify:

(1) a reason for the request;

(2) detailed information concerning the qualified handler's name, address, and telephone and fax numbers;

(3) the month(s) for which the request is made;

(4) assessments due per month or gross sales per month;

(5) total assessments due;

(6) the percent or amount of the outstanding assessment to be paid each month after the postponement of payment is granted; and

(7) the starting and ending date for the payment of assessments due.

(b) At the end of the postponement period, the qualified handler must pay the percent or amount outstanding of assessments agreed upon each month as well as any other assessments which are due. An extension of time for payment of postponed assessments, if granted, will be for the same months previously requested and granted. The extension must not exceed six (6) months. If a qualified handler requests that another period be postponed, that handler must file another application for the postponement of the assessment for the second period using the same procedure which was followed in requesting the first postponement. A qualified handler may request the postponement of the payment of assessments for a maximum of two periods of up to six (6) months each. The payment applicable to the second postponement period, if granted, may not be extended, and the payment period must not exceed the length of the postponement period. Payment of the total assessments due, when an extension and a second period are granted, must begin within one (1) year after the first postponed month's assessments were originally due. No additional postponements would be considered by the Council until the assessments owed for the first two periods have been paid. The Council may conduct an audit of the qualified handler's records at any time to determine whether the qualified handler will be unable to continue to operate if the handler is required to pay the assessments due. In the event that postponed assessments are not paid when due, the Council can demand that all such assessments due be paid in their entirety.

(c) Charges for late payment of assessments as described in § 1208.52 will not be imposed on assessments for which postponement of payment has been granted.

Dated: June 7, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–15092 Filed 6–14–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–54–AD; Amendment 39–9665; AD 96–12– 22]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Engine Oil Filter Adapter Assemblies Installed on Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Cessna Aircraft Company (Cessna) engine oil filter adapter assemblies installed on aircraft. This action requires inspecting the oil filter and adapter assembly (or torque putty,

if installed) for oil leakage and proper installation of the adapter retaining nut and fretting of associated threads (security), and replacing any oil filter adapter assembly with security problems; applying torque putty between the engine filter adapter assembly, nut, and oil pump housing (unless already equipped with torque putty); and repetitively inspecting the torque putty for misalignment, evidence of oil leakage, or torque putty cracks, and reinspecting the oil filter and adapter assembly threads if misalignment, evidence of oil leakage, or torque putty cracks are found. Reports of loose or separated engine oil filter adapters on several airplanes prompted this action. The actions specified by this AD are intended to prevent loss of engine oil caused by loose or separated oil filter adapters, which, if not detected and corrected, could result in engine stoppage while in flight and loss of control of the airplane.

EFFECTIVE DATE: July 31, 1996.

ADDRESSES: Information that applies to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93–CE–54–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946–4143; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to airplanes of any type design that utilize any Cessna engine oil filter adapter was published in the Federal Register on January 22, 1996 (61 FR 1534). The action proposed to require (1) inspecting the oil filter and adapter assembly (or torque putty, if installed) for oil leakage and proper installation of the adapter retaining nut and fretting of associated threads (security), and replacing any oil filter adapter assembly with security problems; (2) applying torque putty between the engine filter adapter assembly, nut, and oil pump housing (unless already equipped with torque putty); and (3) repetitively inspecting the torque putty for misalignment, evidence of oil leakage, or torque putty cracks, and reinspecting the oil filter and adapter assembly threads if misalignment, evidence of oil leakage, or torque putty cracks are found. This proposal revised a previous proposal that was published in the Federal Register on September 19, 1994 (59 FR 47821).

Reports of loose or separated engine oil filter adapters on several airplanes prompted the proposal.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 70,000 airplanes in the U.S. registry incorporate one of the affected engine oil filter adapter assemblies and will, therefore, be affected by this AD; that it will take approximately 1 workhour per airplane to accomplish the initial inspection and torque putty application; and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $4,200,000. This figure is based on the assumption that no operator has accomplished the initial inspection, and does not take into account the cost for the repetitive inspections. Since the pilot is allowed to repetitively inspect the torque putty, the only cost of the repetitive inspections is the time incurred by the pilot and the cost of an inspection required if misalignment, evidence of oil leakage, or torque putty cracks are found. The FAA has no way of determining how many repetitive inspections each individual operator will incur over the life of the airplane.

Regulatory Impact

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 copy of the final 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.

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–12–22 Cessna Aircraft Company: Amendment 39–9665; Docket No. 93–CE–54–AD.

Applicability: Cessna Engine Oil Filter Adapters Assemblies, part numbers 0450404–(all dash numbers), 0556004–(all dash numbers), 0556010–(all dash numbers), 0756023–(all dash numbers), 0756024–(all dash numbers), 1250403–(all dash numbers), 1250417–(all dash numbers), 1250418–(all dash numbers), 1250921–(all dash numbers), and 1250922–(all dash numbers), installed on, but not limited to, the following:

(1) Cessna Models 100, 200, 300, and 400 Series airplanes (all serial numbers), certificated in any category, that are equipped with at least one Teledyne Continental Motors (TCM) engine.

(2) Airplanes that have an affected full flow engine oil adapter installed by field approval, including, but not limited to, the following model or series airplanes, certificated in any category:

Manufacturer	Series/models
Rockwell/Aero Commander/Meyers.	200 Series.
Twin Commander	Models 500A and 685.
Beech	33, 35, 36, and 55 Series.
Piper	PA46 Series.

Manufacturer	Series/models
Navion	Rangemaster 17 Series.
Wren	Model 460.
Bellanca	260 and 300 Series.

(3) Airplanes equipped with any of the following Teledyne Continental Motors model or model series engines:
O–200
TSIO–470
TSIO–520
TSIO–550
O–470
O–520
GTSIO–520
IO–470
IO–520
IO–550

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: This AD does not apply to engine oil filter adapter assemblies manufactured by Teledyne Continental Motors (See Figure 1 of this AD). Compliance: Required initially as specified in both of the following, and thereafter as indicated in the body of this AD:

1. Within the next 100 hours time-in-service (TIS) after the effective date of this AD or when the engine oil filter is removed, whichever occurs first; and

2. Every time the engine oil filter is removed.

To prevent loss of engine oil caused by loose or separated oil filter adapters, which could result in engine stoppage while in flight and loss of control of the airplane, accomplish the following:

(a) For airplanes with engine oil filter adapter assemblies that do not have torque putty between the engine filter adapter assembly, nut, and oil pump housing, accomplish the following:

(1) Inspect the adapter locking nut installation for evidence of oil leakage.

(2) Check the torque of the adapter nut installation and ensure that the torque value is within the limits of 50 through 60 foot pounds.

(3) If evidence of oil leakage is found or the torque is not within the 50 through 60-foot pound limit, prior to further flight, remove the adapter and filter assembly, and:

(i) Inspect the threads of the adapter assembly and engine for signs of damaged or cracked threads; and

(ii) Replace any adapter assembly and engine oil pump housing (if necessary) that have evidence of thread damage or cracks.

(4) Apply torque putty between the engine filter adapter assembly, nut, and oil pump housing as specified in Figure 1 of this AD.

(5) Reassemble the engine oil filter assembly.

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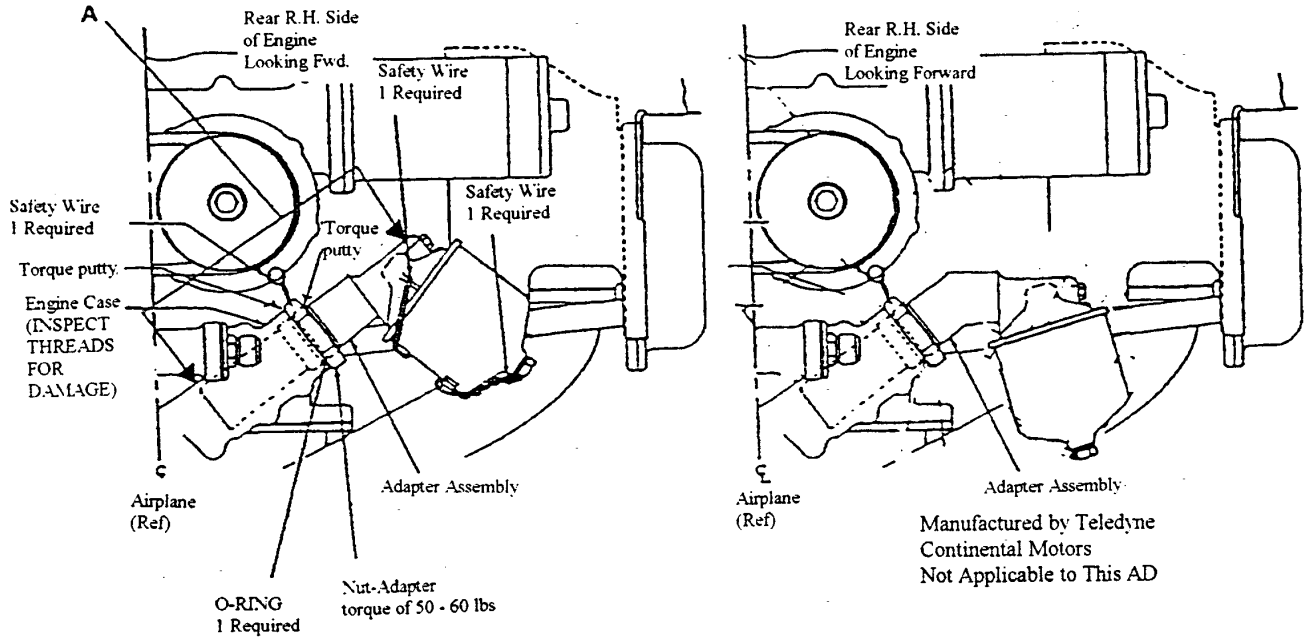
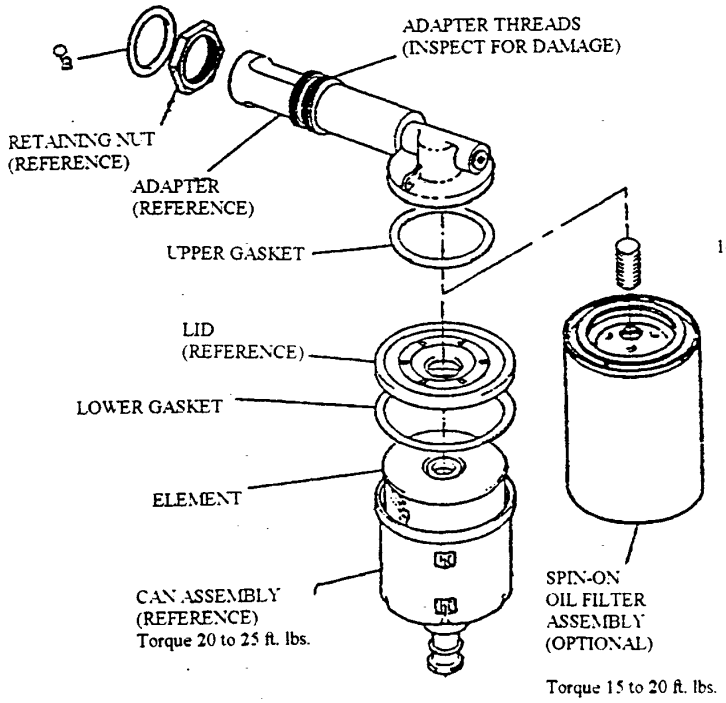
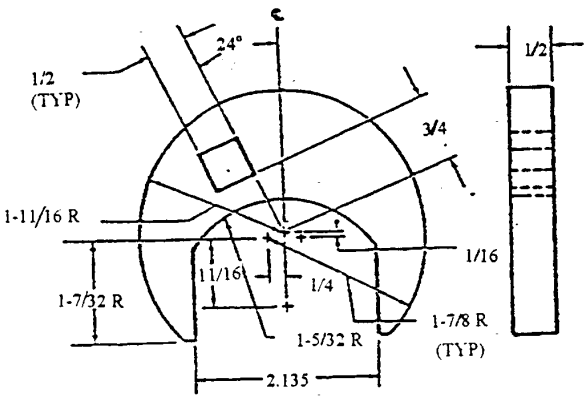




DETAIL A



ALL DIMENSIONS ARE INCHES

MATERIAL: 4130 (Rc. 35-38)

TOOL NUMBER SE709 IS AVALIABLE FROM THE CESSNA SERVICE PARTS CENTER

Snap-On crows foot P/N AN8508-34A.

have ground down the ends for clearance.

Figure 1. Oil Filter Adapter Installation

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(b) For airplanes with torque putty between the engine filter adapter assembly, nut, and oil pump housing, inspect the torque putty for misalignment, evidence of oil leakage, or cracks.

(1) If any misalignment, evidence of oil leakage, or torque putty cracks are found, prior to further flight, accomplish the requirements specified in paragraph (a) of this AD, including all subparagraphs.

(2) If no misalignment, evidence of oil leakage, or torque putty cracks are found, reinspect at intervals not to exceed 100 hours TIS until the engine oil filter is removed.

(c) Replacing the engine oil filter adapter assembly does not eliminate the repetitive inspection requirement of this AD.

(d) The repetitive inspections of the torque putty as required by this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(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 airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(g) Information related to this AD may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment (39–9665) becomes effective on July 31, 1996.

Issued in Kansas City, Missouri, on June 3, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–14631 Filed 6–14–96; 8:45 am]

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14 CFR Part 39

[Docket No. 96–CE–05–AD; Amendment 39–9591; AD 96–09–15]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 208 and 208B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This action makes a correction to Airworthiness Directive (AD) 96–09–15 concerning all Cessna Aircraft Company (Cessna) Models 208 and 208B airplanes, which was published in the Federal Register on May 7, 1996 (61 FR 20641). That publication incorrectly references a cue for the pilot or crew member in severe icing conditions. The AD currently requires the pilot to follow certain visual cues during flight in icing conditions and the third of these cues requires the pilot to look at the engine propeller spinner. This cue is inappropriate for this type of airplane. The intent of the AD in paragraph (a)(1), first bullet, third cue, should not be a requirement for the Cessna Models 208 and 208B. This action corrects the AD to reflect this change.

EFFECTIVE DATE: June 11, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. John Dow, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: On May 7, 1996, the Federal Aviation Administration (FAA) issued AD 96–09–15, Amendment 39–9591 (61 FR 20641, May 7, 1996), which applies to all Cessna Models 208 and 208B airplanes. This AD requires a revision in the Airplane Flight Manual (AFM) by incorporating a warning into the Limitations Section of the AFM. Within this warning (in the first bulleted paragraph) are cues for the pilot to follow during flight in severe icing conditions. The third cue references accumulation of ice on the engine propeller spinner.

Need for the Correction

The AD incorrectly references the ''* * * engines propeller spinner * * *'' which is not appropriate for the type design of these Cessna Models 208 and 208B airplanes. These airplanes are single engine designs which would not allow the pilot to see the engine propeller spinner from the cockpit.

Correction of Publication

Accordingly, the publication of May 7, 1996 (61 FR 20641), of Amendment 39–9591; AD 96–09–15, which was the subject of FR Doc. 96–10729, is corrected as follows:

§ 39.13 [Corrected]

On page 20642, in the third column, section 39.13, paragraph (a)(1), line 17 from the top of the column, disregard and delete ''-Accumulation of ice on the engine propeller spinner * * *''.

Action is taken herein to clarify this requirement of AD 96–09–15 and to add this AD correction to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The effective date remains June 11, 1996.

Issued in Kansas City, Missouri on June 10, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–15139 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–CE–34–AD; Amendment 39–9670; AD 96–13–02]

RIN 2120–AA64

Airworthiness Directives; Jetstream Aircraft Limited (Formerly British Aerospace, Regional Airlines Limited) Jetstream Model 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Jetstream Aircraft Limited (JAL) Jetstream Model 3201 airplanes. This action requires repetitively inspecting the spigot housing plate for cracks and corrosion at the wing/fuselage forward attachment sliding joint, replacing any cracked or corroded part, and eventually replacing the spigots and spigot housing plate with new parts of improved design. A crack in the spigot housing plate assembly found during fatigue testing of the affected airplanes prompted this action. The actions specified by this AD are intended to prevent structural failure of the wing/fuselage area caused by a cracked or corroded spigot housing assembly.

DATES: Effective August 7, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Jetstream Aircraft Limited, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, D.C. 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93–CE–34–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2715; facsimile (32 2) 230.6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64105; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain JAL Jetstream Model 3201 airplanes was published in the Federal Register on September 19, 1995 (60 FR 48429). The action proposed to require repetitively inspecting the spigot housing plate for cracks and corrosion at the wing/fuselage forward attachment sliding joint, replacing any cracked or corroded part, and eventually replacing the spigots and spigot housing plate with new parts of improved design. Accomplishment of the proposed actions would be in accordance with Jetstream Service Bulletin No. 57–JA 921144, Revision 1, dated April 19, 1994.

A crack in the spigot housing plate assembly found during fatigue testing of the affected airplanes prompted this action.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 120 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 23 workhours per airplane to accomplish the initial inspection and modification, and that the average labor rate is approximately $60 an hour. JAL will provide parts at no cost to the owner/operator. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $165,600 or $1,380 per airplane. This figure is based on the assumption that none of the affected airplanes have the required modification incorporated and does not take into account the cost of repetitive inspections. The FAA has no way of determining how many repetitive inspections each owner/operator will incur over the life of the airplane.

Jetstream Aircraft Limited has informed the FAA that parts have been distributed to equip approximately 30 airplanes (approximately 25 percent of the fleet in the U.S. registry). Assuming that each set of parts is installed on an affected Jetstream Model 3201 airplane, the cost impact of this AD upon U.S. operators is reduced $41,400 from $165,600 to $124,200.

Regulatory Impact

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 copy of the final 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, 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), 40113, 44701.

§ 39.13 [Amended]

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

96–13–02 Jetstream Aircraft Limited: Amendment 39–9670; Docket No. 93–CE–34–AD.

Applicability: Jetstream Model 3201 airplanes (serial numbers 790 through 960), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent structural failure of the wing/fuselage area caused by a cracked spigot housing assembly, accomplish the following:

(a) Upon the accumulation of 7,200 hours time-in-service (TIS) or within the next 500 hours TIS after the effective date of this AD, whichever occurs later, inspect the spigot housing plate at the wing/fuselage forward attachment sliding joint for corrosion or cracks. Accomplish this inspection in accordance with Part 1 of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Service Bulletin (SB) No. 57–JA 921144, Revision 1, dated April 19, 1994; or Jetstream SB No. 57–JA 921144, Original Issue, dated March 4, 1993.

(1) If any corrosion or cracks are found, prior to further flight, modify the spigot and spigot housing plate in accordance with

either Part 2 or Part 3, as applicable, of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB No. 57–JA 921144, Revision 1, dated April 19, 1994.

(2) If no corrosion or cracks are found, within the next 3,000 hours TIS after the inspection required by paragraph (a) of this AD, modify the spigot and spigot housing plate in accordance with either Part 2 or Part 3, as applicable, of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB No. 57–JA 921144, Revision 1, dated April 19, 1994.

(3) Jetstream No. SB 57–JA 921144, Original Issue, dated March 4, 1993, is not applicable to this modification and shall not be utilized to accomplish either paragraph (a)(1) or (a)(2) of this AD.

(b) 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.

(c) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

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

(d) The inspection required by this AD shall be done in accordance with Jetstream Service Bulletin No. 57–JA 921144, Revision 1, dated April 19, 1994; or Jetstream Service Bulletin No. 57–JA 921144, Original Issue, dated March 4, 1993. The modification required by this AD shall be done in accordance with Jetstream Service Bulletin No. 57–JA 921144, Revision 1, dated April 19, 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 Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041–6029. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–9670) becomes effective on August 7, 1996.

Issued in Kansas City, Missouri, on June 10, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–15141 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ACE–3]

Amendment to Class E Airspace; Topeka, KS; Kingman, KS; Hutchinson, KS; and Wahoo, NE

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Philip Billard Municipal Airport, Topeka, KS; Kingman Municipal Airport, Kingman, KS; Hutchinson Municipal Airport, Hutchinson, KS; and Wahoo Municipal Airport, Wahoo, NE. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) has made the proposal necessary. The intended effect of this proposal is to provide additional controlled airspace for aircraft executing the SIAPs at the above listed airports.

EFFECTIVE DATE: 0901 UTC August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 E. 12th St., Kansas City, MO, 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On April 9, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying the Class E airspace area at Topeka, KS; Kingman, KS; Hutchinson, KS; and Wahoo, NE (61 FR 15740). The proposed action would provide additional controlled airspace to accommodate the new SIAP to Philip Billard Municipal Airport, Topeka, KS; Kingman Municipal Airport, Kingman, KS; Hutchinson Municipal Airport, Hutchinson, KS; and Wahoo Municipal Airport, Wahoo, NE.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraphs 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends the Class E airspace areas at the airports listed in the SUMMARY, by providing additional controlled airspace for aircraft executing the new SIAPs. A minor correction is being made to the geographical coordinates for Topeka, Philip Billard Municipal Airport, KS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

ACE KS E5 Topeka, Philip Billard Airport, KS

Topeka, Philip Billard Municipal Airport, KS
(lat. 39°04′07″N., long. 95°37′21″W.)
Topeka VORTAC
(lat. 39°08′14″N., long. 95°32′57″W.)
BILOY LOM/NDB
(lat. 39°07′13″N., long. 95°41′14″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile

radius of Philip Billard Municipal Airport, and within 1.8 miles each side of the 039° radial of the Topeka VORTAC extending from the 6.4-mile radius to 7 miles northeast of the VORTAC, and within 4 miles southwest and 7 miles northeast of the Philip Billard Municipal Airport ILS localizer course extending from 15 miles southeast of the airport to 12 miles northwest of BILOY LOM/NDB.

* * * * *

ACE KS E5 Kingman, KS

Kingman Municipal Airport, KS
(lat. 37°40′00″N., long. 98°07′22″W.)
Hutchinson VORTAC
(lat. 37°59′49″N., long. 97°56′03″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Kingman Municipal Airport, and within 2.2 miles each side of the 204° radial of Hutchinson VORTAC extending from the 6.4-mile radius to 11.2 miles north of the airport.

* * * * *

ACE KS E5 Hutchinson, KS

Hutchinson Municipal Airport, KS
(lat. 38°03′56″N., long. 97°51′38″W.)
Hutchinson VORTAC
(lat. 37°59′49″N., long. 97°56′03″W.)
SALTT LOM
(lat. 38°07′25″N., long. 97°55′36″W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Hutchinson Municipal Airport, and within 4 miles each side of the Hutchinson ILS localizer northwest course extending to 16 miles northwest of the SALTT LOM, and within 4 miles each side of the ILS localizer back course extending from the 6.6-mile radius to 7.4 miles southwest of the airport, and within 4 miles each side of the 042° radial of the Hutchinson VORTAC extending from the 6.6-mile radius to 7.4 miles northeast of the airport, and within 4 miles each side of the 222° radial of Hutchinson VORTAC extending from the 6.6-mile radius to 11.2 miles southwest of the airport.

* * * * *

ACE NE E5 Wahoo, NE

Wahoo Municipal Airport, NE
(lat. 41°14′25′N., long 96°35′41″W.)
Wahoo NDB
(lat. 41°14′21″N., long. 96°35′54″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Wahoo Municipal Airport, and within 2.6 miles each side of the 032° bearing from the Wahoo NDB extending from the 6.4-mile radius to 7.4 miles northeast of the airport, excluding that portion which lies within the Fremont, NE, Class E airspace.

* * * * *

Issued in Kansas City, MO on May 29, 1996.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 96–15333 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–33–M

14 CFR Part 73

[Airspace Docket No. 95–ASO–18]

Subdivision of Restricted Area R–2103, Fort Rucker, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action subdivides Restricted Area 2103 (R–2103), Fort Rucker, AL, into two separate areas, to permit more efficient use of the airspace. R–2103A is designated from the surface to but not including 10,000 feet mean sea level (MSL), and R–2103B is designated from 10,000 feet MSL to 15,000 feet MSL. This subdivision of the restricted areas utilize the existing lateral boundaries of R–2103. No new restricted airspace is established by this action.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to 14 CFR part 73 subdivides R–2103, Fort Rucker, AL, into two separate areas to permit more efficient utilization of airspace. Currently, R–2103 extends from the surface to 15,000 feet MSL, with a time of designation of ''continuous.'' The using agency has determined that the majority of mission activities currently do not require restricted airspace above 10,000 feet MSL. Certain activities, however, still require restricted airspace up to the 15,000 feet MSL ceiling, but not on a ''continuous'' basis. Under the current restricted area configuration, airspace is restricted up to 15,000 feet MSL even when mission activities do not require airspace above 10,000 feet MSL. This unnecessarily limits public access to a portion of the airspace. This amendment will subdivide the existing R–2103 as follows: R–2103A is designated from the surface to but not including 10,000 feet MSL, and retains a ''continuous'' time of designation. Cairns Approach Control, a U.S. Army air traffic control facility, is designated as the controlling agency for R–2103A, per agreement with the FAA, Jacksonville ARTCC. R–2103B is designated from 10,000 feet MSL to 15,000 feet MSL, with a time of designation of ''By Notice to Airmen (NOTAM) 6 hours in advance.'' The FAA, Jacksonville ARTCC is designated as the controlling agency for R–2103B. This change enables the using agency to accomplish its mission while improving the capability to activate only the minimum amount of restricted airspace necessary for that mission. There is no change to the lateral boundaries or activities conducted in the existing area. This action affects only the internal subdivision of an existing restricted area and enhances efficient airspace utilization. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary since this action is a minor amendment in which the public would not be particularly interested. The coordinates for this airspace docket are based on North American Datum 83. Section 73.21 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8C dated June 19, 1995.

Environmental Review

This action internally subdivides an existing restricted area and does not affect the lateral boundaries or overall vertical limits of restricted airspace. There are no changes to air traffic control procedures, routes, or type of activity conducted within these boundaries as a result of this amendment. Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 73.21 [Amended]

2. Section 73.21 is amended as follows:

R–2103 Fort Rucker, AL [Removed]

R–2103A Fort Rucker, AL [New]

Boundaries. A circular area with a radius of 4 miles centered at lat. 31°26′56″N., long. 85°47′45″W.

Designated altitudes. Surface to but not including 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. U.S. Army, Cairns Approach Control.

Using agency. Commanding General, U.S. Army Aviation Center, Fort Rucker, AL.

R–2103B Fort Rucker, AL [New]

Boundaries. A circular area with a radius of 4 miles centered at lat. 31°26′56″N., long. 85°47′45″W.

Designated altitudes. 10,000 feet MSL to 15,000 feet MSL.

Time of designation. By NOTAM 6 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. Commanding General, U.S. Army Aviation Center, Fort Rucker, AL.

Issued in Washington, DC, on June 5, 1996.

Harold W. Becker,

Acting Program Director for Air Traffic, Airspace Management.

[FR Doc. 96–15212 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

United States Travel and Tourism Administration

15 CFR Chapter XII

[Docket No. 960610168–6168–01]

RIN 0644–XX01

Removal of CFR Chapter

AGENCY: United States Travel and Tourism Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Omnibus Consolidated Rescissions and Appropriations Act of 1996 did not include funding for the U.S. Travel and Tourism Administration. Some functions that are directly linked to tourism and trade are being established in the International Trade Administration, and no further funding is required. Therefore, the United States Travel and Tourism regulations regarding the issuance of grants to promote travel to States or their political subdivisions by foreign residents are being removed from the Code of Federal Regulations.

EFFECTIVE DATE: July 17, 1996.

FOR FURTHER INFORMATION CONTACT:

Joan DeBellis, 202–482–4606.

SUPPLEMENTARY INFORMATION: In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reform Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all agencies to undertake, as part of this initiative, an exhaustive review of all their regulations—with an emphasis on eliminating or modifying those that are obsolete or otherwise in need of reform. The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134) did not include funding for the United States Travel and Tourism Administration. On April 27, 1996, the United States Travel and Tourism Administration ceased to exist. Therefore, the regulations regarding the issuance of grants to promote travel to States or their political subdivisions by foreign residents are being removed because the program is no longer funded.

Miscellaneous Rulemaking Requirements

1. It has been determined that this rulemaking action is not significant for purposes of Executive Order 12866.

2. This rulemaking is exempt from all procedural requirements of section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

List of Subjects in 15 CFR Part 1200

Grant programs—transportation, Travel.

CHAPTER XII—[REMOVED]

Accordingly, under authority of 5 U.S.C. 301, 15 CFR is amended by removing part 1200 and vacating Chapter XII.

Alan Balutis,

Director, Budget, Management and Information and Chief Information Officer.

[FR Doc. 96–15259 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 385

[Docket Nos. RM95–8–000 and RM94–7–001]

Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities

Issued June 6, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; notice of filing of motion for clarification.

SUMMARY: On May 13, 1996, the coalition for a Competitive Electric Market (CCEM) filed a motion for expedited clarification of the service requirements for filing tariffs in compliance with the final rule in this proceeding (61 FR 21540, May 10, 1996). CCEM asks the Commission to clarify that public utilities are to provide a copy of their compliance filings on electronic diskette (in word-processing format containing a redline version comparing the compliance tariff with the pro forma tariff), via overnight delivery, to any eligible customer that requests a copy of the compliance tariff in advance of its filing with the Commission and that is prepared to pay the costs associated with such service. Copies of CCEM's motion are on file with the Commission and are available for public inspection.

DATES: Any person desiring to respond to CCEM's motion should file an answer on or before June 21, 1996.

ADDRESSES: Send answers to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

David D. Withnell, Federal Energy Regulatory Commission, Office of the General Counsel, 888 First ST., N.E., Washington, D.C. 20426, Telephone: (202) 208–2063..

Lois D. Cashell,

Secretary.

[FR Doc. 96–15250 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5520–2]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list.

This rule adds 13 new sites to the General Superfund Section of the NPL. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be July 17, 1996.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see ''Information Available to the Public'' in Section I of the ''Supplementary Information'' portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, State and Site Identification Center, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Pub. L. No. 99–499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action * * * and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 U.S.C. 9601(23). ''Remedial'' actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 U.S.C. 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List (''NPL'').

CERCLA section 105(a)(8)(B) defines the NPL as a list of ''releases'' and as a list of the highest priority ''facilities.'' CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

The purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases.

Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

Three mechanisms for placing sites on the NPL for possible remedial action are included in the NCP at 40 CFR 300.425(c). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be

listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 29, 1995 (60 FR 50435).

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites being addressed generally by other Federal agencies (the ''Federal Facilities Section''). Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes facilities at which EPA is not the lead agency.

Site Boundaries

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known ''releases or threatened releases.'' Thus, the purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, described at 48 FR 40663 (September 8, 1983)).

When a site is listed, it is necessary to define the release (or releases) encompassed within the listing. The approach generally used is to delineate a geographical area (usually the area within the installation or plant boundaries) and define the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to define the site, and any other location to which contamination from that area has come to be located.

While geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by the particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the facility or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the threat presented by a release'' will be determined by a Remedial Investigation/Feasibility Study (RI/FS) as more information is developed on site contamination (40 CFR 300.430(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). To date, the Agency has deleted 108 sites from the NPL.

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL. Inclusion of a site on the CCL has no legal significance.

In addition to the 102 sites that have been deleted from the NPL because they have been cleaned up (6 sites have been deleted based on deferral to other authorities and are not considered cleaned up), an additional 251 sites are also in the NPL CCL. Thus, as of June 1996, the CCL consists of 353 sites.

Action In This Notice

This final rule adds 13 sites to the General Superfund Section of the NPL. Nine of these sites are added to the NPL based on an HRS score of 28.5 or greater, three are added based on ATSDR Health Advisory Criteria, and one is added based on its designation as a State top priority. This action results in an NPL of 1,227 sites, 1,073 in the General Superfund Section and 154 in the Federal Facilities Section. With the action of a proposed rule published

elsewhere in today's Federal Register, an additional 52 sites are proposed and are awaiting final agency action, 45 in the General Superfund Section and 7 in the Federal Facilities Section. Final and proposed sites now total 1,279.

Information Available to the Public

The Headquarters and Regional public dockets for the NPL contain documents relating to the evaluation and scoring of the sites in this final rule. The dockets are available for viewing, by appointment only, after the appearance of this notice. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Docket for hours.

Addresses and phone numbers for the Headquarters and Regional dockets follow:

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA, 703/603–8917, (Please note this is viewing address only. Do not mail documents to this address.)
Jim Kyed, Region 1, U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656
Ben Conetta, Region 2, U.S. EPA, 290 Broadway, New York, NY 10007–1866, 212/637–4435
Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/566–5250
Kathy Piselli, Region 4, U.S. EPA, 345 Courtland Street, NE, Atlanta, GA 30365 404/347–4216
Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214
Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740
Carole Long, Region 7, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224
Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598
Rachel Loftin, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347
David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103

For the sites added to the NPL based on an HRS score of 28.5 or greater, the Headquarters docket for this rule contains HRS score sheets for the final sites; Documentation Records for the sites describing the information used to compute the scores; pertinent information regarding statutory requirements or EPA listing policies that affect the sites; and a list of documents referenced in each of the Documentation Records. For the sites being listed based on ATSDR Health Advisory criteria, the Headquarters docket contains the health advisory issued by ATSDR and other supporting documentation. For the site being listed based on its designation as a State top priority, the docket contains supporting documentation from the State. For all of the final sites, the Headquarters docket contains comments received; and the Agency's responses to those comments. The Agency's responses are contained in the ''Support Document for the Revised National Priorities List Final Rule—June 1996.''

A general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, the economic impacts of NPL listing, and the analysis required under the Regulatory Flexibility Act is included as part of the Headquarters rulemaking docket in the ''Additional Information'' document.

The Regional docket contains all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score, when the HRS is used, for the sites. These reference documents are available only in the Regional dockets.

Interested parties may view documents, by appointment only, in the Headquarters or Regional Dockets, or copies may be requested from the Headquarters or Regional Dockets. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. If you wish to obtain documents by mail from EPA Headquarters Docket, the mailing address is as follows:

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office (Mail Code 5201G), 401 M Street, SW, Washington, DC 20460, 703/603–8917 (Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, see viewing address above.)

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

II. Contents of This Final Rule

This notice promulgates final rules to add 13 sites to the General Superfund Section of the NPL (Table 1). The following table presents the sites in this rule arranged alphabetically by State and identifies their rank by group number. Group numbers are determined by arranging the NPL by rank and dividing it into groups of 50 sites. For example, a site in Group 4 has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

NATIONAL PRIORITIES LIST FINAL RULE—GENERAL SUPERFUND SECTION

State	Site name	City/County	Group
GA	LCP Chemicals Georgia	Brunswick	NA
IL	Jennison-Wright Corporation	Granite City	12
KS	Wright Ground Water Contamination	Wright	5/6
ME	Eastern Surplus	Meddybemps	5/6
MI	Aircraft Components (D&L Sales)	Benton Harbor	NA
MI	H & K Sales	Belding	NA
NE	Bruno Co-op Association/Associated Properties	Bruno	5/6
NJ	Franklin Burn	Franklin Township	12
NJ	Welsbach & General Gas Mantle (Camden Radiation)	Camden & Gloucester Cities	12
NY	Little Valley	Little Valley	NA
PA	Breslube-Penn Inc	Coraopolis	5/6
VI	Island Chemical Corp/Virgin Islands Chemical Corp	St. Croix	5/6

NATIONAL PRIORITIES LIST FINAL RULE—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/County	Group
WI	Penta Wood Products	Daniels	5/6

Number of sites listed: 13.

Public Comments

EPA reviewed all comments received on sites included in this notice. Based on comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment), EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the ''Support Document for the Revised National Priorities List Final Rule—June 1996.''

III. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

IV. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. Today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not subject to the requirements of sections 202, 203 or 205 of the Unfunded Mandates Act.

V. Governor's Concurrence

On May 2, 1996, Congress enacted the Omnibus Consolidated Rescissions and Appropriations Act of 1996 Public Law (Pub. L.) 104–134, which established federal government spending limitations for the fiscal year ending September 30, 1996. Pub. L. 104–134 provides that EPA may not use funds made available for fiscal year 1996 ''to propose for listing or to list any additional facilities on the National Priorities List * * * unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located * * *.'' EPA has received letters from the appropriate governors requesting that the Agency list on the NPL all the facilities in this rule. These letters are available in the docket for this rulemaking.

VI. Effect on Small Businesses

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule revises the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

VII. CERCLA Section 305

CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although INS v. Chadha, 462 U.S. 919,103 S. Ct.

2764 (1983) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress calls the effective date of this regulation into question, EPA will publish a clarification in the Federal Register.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 6, 1996.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Appendix B to part 300 is revised to read as set forth below:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996

State	Site name	City/county	Notes[a]
AK	Alaska Battery Enterprises	Fairbanks N Star Borough	C
AK	Arctic Surplus	Fairbanks	
AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh	
AL	Interstate Lead Co. (ILCO)	Leeds	
AL	Olin Corp. (McIntosh Plant)	McIntosh	
AL	Perdido Ground Water Contamination	Perdido	C
AL	Redwing Carriers, Inc. (Saraland)	Saraland	
AL	Stauffer Chemical Co. (Cold Creek Plant)	Bucks	
AL	Stauffer Chemical Co. (LeMoyne Plant)	Axis	
AL	T.H. Agriculture & Nutrition (Montgomery)	Montgomery	
AL	Triana/Tennessee River	Limestone/Morgan	C
AR	Arkwood, Inc	Omaha	
AR	Frit Industries	Walnut Ridge	
AR	Gurley Pit	Edmondson	C
AR	Industrial Waste Control	Fort Smith	C
AR	Jacksonville Municipal Landfill	Jacksonville	C
AR	Mid-South Wood Products	Mena	C
AR	Midland Products	Ola/Birta	C
AR	Monroe Auto Equipment (Paragould Pit)	Paragould	
AR	Popile, Inc	El Dorado	
AR	Rogers Road Municipal Landfill	Jacksonville	C
AR	South 8th Street Landfill	West Memphis	
AR	Vertac, Inc	Jacksonville	
AZ	Apache Powder Co	St. David	
AZ	Hassayampa Landfill	Hassayampa	
AZ	Indian Bend Wash Area	Scottsdale/Tempe/Phoenix	
AZ	Litchfield Airport Area	Goodyear/Avondale	
AZ	Motorola, Inc. (52nd Street Plant)	Phoenix	
AZ	Nineteenth Avenue Landfill	Phoenix	
AZ	Tucson International Airport Area	Tucson	
CA	Advanced Micro Devices, Inc	Sunnyvale	C
CA	Advanced Micro Devices, Inc. (Bldg. 915)	Sunnyvale	C
CA	Aerojet General Corp	Rancho Cordova	
CA	Applied Materials	Santa Clara	C
CA	Atlas Asbestos Mine	Fresno County	
CA	Beckman Instruments (Porterville Plant)	Porterville	C
CA	Brown & Bryant, Inc. (Arvin Plant)	Arvin	
CA	CTS Printex, Inc	Mountain View	C
CA	Celtor Chemical Works	Hoopa	C
CA	Coalinga Asbestos Mine	Coalinga	C
CA	Coast Wood Preserving	Ukiah	
CA	Crazy Horse Sanitary Landfill	Salinas	
CA	Del Norte Pesticide Storage	Crescent City	C
CA	Fairchild Semiconductor Corp (Mt View)	Mountain View	
CA	Fairchild Semiconductor Corp (S San Jose)	South San Jose	C
CA	Firestone Tire & Rubber Co. (Salinas Plant)	Salinas	C
CA	Fresno Municipal Sanitary Landfill	Fresno	
CA	Frontier Fertilizer	Davis	
CA	Hewlett-Packard (620–640 Page Mill Road)	Palo Alto	
CA	Industrial Waste Processing	Fresno	
CA	Intel Corp. (Mountain View Plant)	Mountain View	
CA	Intel Corp. (Santa Clara III)	Santa Clara	C
CA	Intel Magnetics	Santa Clara	C
CA	Intersil Inc./Siemens Components	Cupertino	C
CA	Iron Mountain Mine	Redding	
CA	J.H. Baxter & Co	Weed	
CA	Jasco Chemical Corp	Mountain View	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
CA	Koppers Co., Inc. (Oroville Plant)	Oroville	
CA	Liquid Gold Oil Corp	Richmond	C
CA	Lorentz Barrel & Drum Co	San Jose	
CA	Louisiana-Pacific Corp	Oroville	
CA	MGM Brakes	Cloverdale	C
CA	McColl	Fullerton	
CA	McCormick & Baxter Creosoting Co	Stockton	
CA	Modesto Ground Water Contamination	Modesto	
CA	Monolithic Memories	Sunnyvale	C
CA	Montrose Chemical Corp	Torrance	
CA	National Semiconductor Corp	Santa Clara	
CA	Newmark Ground Water Contamination	San Bernardino	
CA	Operating Industries, Inc., Landfill	Monterey Park	
CA	Pacific Coast Pipe Lines	Fillmore	
CA	Purity Oil Sales, Inc	Malaga	
CA	Ralph Gray Trucking Co	Westminster	
CA	Raytheon Corp	Mountain View	
CA	San Fernando Valley (Area 1)	Los Angeles	
CA	San Fernando Valley (Area 2)	Los Angeles/Glendale	
CA	San Fernando Valley (Area 3)	Glendale	
CA	San Fernando Valley (Area 4)	Los Angeles	
CA	San Gabriel Valley (Area 1)	El Monte	
CA	San Gabriel Valley (Area 2)	Baldwin Park Area	
CA	San Gabriel Valley (Area 3)	Alhambra	
CA	San Gabriel Valley (Area 4)	La Puente	
CA	Selma Treating Co	Selma	
CA	Sola Optical USA, Inc	Petaluma	C
CA	South Bay Asbestos Area	Alviso	
CA	Southern California Edison Co. (Visalia)	Visalia	
CA	Spectra-Physics, Inc	Mountain View	C
CA	Stringfellow	Glen Avon Heights	S
CA	Sulphur Bank Mercury Mine	Clear Lake	
CA	Synertek, Inc. (Building 1)	Santa Clara	C
CA	T.H. Agriculture & Nutrition Co	Fresno	
CA	TRW Microwave, Inc (Building 825)	Sunnyvale	C
CA	Teledyne Semiconductor	Mountain View	C
CA	United Heckathorn Co	Richmond	
CA	Valley Wood Preserving, Inc	Turlock	
CA	Waste Disposal, Inc	Santa Fe Springs	
CA	Watkins-Johnson Co. (Stewart Division)	Scotts Valley	C
CA	Western Pacific Railroad Co	Oroville	
CA	Westinghouse Electric Corp. (Sunnyvale)	Sunnyvale	
CO	Broderick Wood Products	Denver	
CO	California Gulch	Leadville	
CO	Central City-Clear Creek	Idaho Springs	
CO	Chemical Sales Co	Denver	
CO	Denver Radium Site	Denver	
CO	Eagle Mine	Minturn/Redcliff	
CO	Lincoln Park	Canon City	
CO	Lowry Landfill	Arapahoe County	
CO	Marshall Landfill	Boulder County	C,S
CO	Sand Creek Industrial	Commerce City	C
CO	Smuggler Mountain	Pitkin County	
CO	Summitville Mine	Rio Grande County	
CO	Uravan Uranium Project (Union Carbide)	Uravan	
CT	Barkhamsted-New Hartford Landfill	Barkhamsted	
CT	Beacon Heights Landfill	Beacon Falls	
CT	Cheshire Ground Water Contamination	Cheshire	
CT	Durham Meadows	Durham	
CT	Gallup's Quarry	Plainfield	
CT	Kellogg-Deering Well Field	Norwalk	
CT	Laurel Park, Inc	Naugatuck Borough	S
CT	Linemaster Switch Corp	Woodstock	
CT	Nutmeg Valley Road	Wolcott	
CT	Old Southington Landfill	Southington	
CT	Precision Plating Corp	Vernon	
CT	Raymark Industries, Inc	Stratford	A
CT	Solvents Recovery Service New England	Southington	
CT	Yaworski Waste Lagoon	Canterbury	
DE	Army Creek Landfill	New Castle County	C
DE	Chem-Solv, Inc	Cheswold	
DE	Coker's Sanitation Service Landfills	Kent County	C

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
DE	Delaware City PVC Plant	Delaware City	
DE	Delaware Sand & Gravel Landfill	New Castle County	
DE	Dover Gas Light Co	Dover	
DE	E.I.Du Pont de Nemours (Newport Landfill	Newport	
DE	Halby Chemical Co	New Castle	
DE	Harvey & Knott Drum, Inc	Kirkwood	C
DE	Koppers Co., Inc. (Newport Plant)	Newport	
DE	NCR Corp. (Millsboro Plant)	Millsboro	
DE	New Castle Spill	New Castle County	C
DE	Sealand Limited	Mount Pleasant	C
DE	Standard Chlorine of Delaware, Inc	Delaware City	
DE	Sussex County Landfill No. 5	Laurel	C
DE	Tybouts Corner Landfill	New Castle County	C,S
DE	Tyler Refrigeration Pit	Smyrna	
DE	Wildcat Landfill	Dover	C
FL	Agrico Chemical Co	Pensacola	
FL	Airco Plating Co	Miami	
FL	American Creosote Works (Pensacola Plt)	Pensacola	
FL	Anaconda Aluminum Co./Milgo Electronics	Miami	C
FL	Anodyne, Inc	North Miami Beach	
FL	B&B Chemical Co., Inc	Hialeah	C
FL	BMI-Textron	Lake Park	C
FL	Beulah Landfill	Pensacola	C
FL	Cabot/Koppers	Gainesville	
FL	Chemform, Inc	Pompano Beach	C
FL	Chevron Chemical Co. (Ortho Division)	Orlando	
FL	City Industries, Inc	Orlando	C
FL	Coleman-Evans Wood Preserving Co	Whitehouse	
FL	Davie Landfill	Davie	C
FL	Dubose Oil Products Co	Cantonment	C
FL	Escambia Wood—Pensacola	Pensacola	
FL	Florida Steel Corp	Indiantown	
FL	Gold Coast Oil Corp	Miami	C
FL	Harris Corp. (Palm Bay Plant)	Palm Bay	
FL	Helena Chemical Co. (Tampa Plant)	Tampa	
FL	Hipps Road Landfill	Duval County	C
FL	Hollingsworth Solderless Terminal	Fort Lauderdale	C
FL	Kassauf-Kimerling Battery Disposal	Tampa	
FL	Madison County Sanitary Landfill	Madison	
FL	Miami Drum Services	Miami	C
FL	Munisport Landfill	North Miami	
FL	Northwest 58th Street Landfill	Hialeah	C
FL	Peak Oil Co./Bay Drum Co	Tampa	
FL	Pepper Steel & Alloys, Inc	Medley	C
FL	Petroleum Products Corp	Pembroke Park	
FL	Pickettville Road Landfill	Jacksonville	
FL	Piper Aircraft/Vero Beach Water & Sewer	Vero Beach	
FL	Reeves Southeast Galvanizing Corp	Tampa	
FL	Sapp Battery Salvage	Cottondale	
FL	Schuylkill Metals Corp	Plant City	
FL	Sherwood Medical Industries	Deland	
FL	Sixty-Second Street Dump	Tampa	C
FL	Standard Auto Bumper Corp	Hialeah	C
FL	Stauffer Chemical Co. (Tarpon Springs)	Tarpon Springs	
FL	Sydney Mine Sludge Ponds	Brandon	
FL	Taylor Road Landfill	Seffner	
FL	Tower Chemical Co	Clermont	
FL	Whitehouse Oil Pits	Whitehouse	
FL	Wingate Road Municipal Incinerator Dump	Fort Lauderdale	
FL	Yellow Water Road Dump	Baldwin	
FL	Zellwood Ground Water Contamination	Zellwood	
GA	Cedartown Industries, Inc	Cedartown	
GA	Cedartown Municipal Landfill	Cedartown	
GA	Diamond Shamrock Corp. Landfill	Cedartown	C
GA	Firestone Tire & Rubber Co (Albany Plant)	Albany	
GA	Hercules 009 Landfill	Brunswick	
GA	LCP Chemicals Georgia	Brunswick	S
GA	Marzone Inc./Chevron Chemical Co	Tifton	
GA	Mathis Brothers Landfill	Kensington	
GA	Monsanto Corp. (Augusta Plant)	Augusta	C
GA	Powersville Site	Peach County	C
GA	T.H. Agriculture & Nutrition (Albany)	Albany	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
GA	Woolfolk Chemical Works, Inc	Fort Valley	
GU	Ordot Landfill	Guam	C,S
HI	Del Monte Corp. (Oahu Plantation)	Honolulu County	
IA	Des Moines TCE	Des Moines	
IA	Electro-Coatings, Inc	Cedar Rapids	
IA	Fairfield Coal Gasification Plant	Fairfield	C
IA	Farmers' Mutual Cooperative	Hospers	
IA	John Deere (Ottumwa Works Landfills)	Ottumwa	C
IA	Lawrence Todtz Farm	Camanche	C
IA	Mason City Coal Gasification Plant	Mason City	
IA	Mid-America Tanning Co	Sergeant Bluff	
IA	Midwest Manufacturing/North Farm	Kellogg	
IA	Peoples Natural Gas Co	Dubuque	
IA	Red Oak City Landfill	Red Oak	
IA	Shaw Avenue Dump	Charles City	
IA	Sheller-Globe Corp. Disposal	Keokuk	
IA	Vogel Paint & Wax Co	Orange City	C
IA	White Farm Equipment Co. Dump	Charles City	C
ID	Bunker Hill Mining & Metallurgical	Smelterville	
ID	Eastern Michaud Flats Contamination	Pocatello	
ID	Kerr-McGee Chemical Corp. (Soda Springs)	Soda Springs	
ID	Monsanto Chemical Co. (Soda Springs)	Soda Springs	
ID	Pacific Hide & Fur Recycling Co	Pocatello	
ID	Union Pacific Railroad Co	Pocatello	
IL	A & F Material Reclaiming, Inc	Greenup	C
IL	Acme Solvent Reclaiming (Morristown Plant)	Morristown	
IL	Adams County Quincy Landfills 2 & 3	Quincy	
IL	Amoco Chemicals (Joliet Landfill)	Joliet	
IL	Beloit Corp	Rockton	
IL	Belvidere Municipal Landfill	Belvidere	C
IL	Byron Salvage Yard	Byron	
IL	Central Illinois Public Service Co	Taylorville	C
IL	Cross Brothers Pail Recycling (Pembroke)	Pembroke Township	
IL	DuPage County Landfill/Blackwell Forest	Warrenville	
IL	Galesburg/Koppers Co	Galesburg	
IL	H.O.D. Landfill	Antioch	
IL	Ilada Energy Co	East Cape Girardeau	
IL	Interstate Pollution Control, Inc	Rockford	
IL	Jennison-Wright Corporation	Granite City	
IL	Johns-Manville Corp	Waukegan	C
IL	Kerr-McGee (Kress Creek/W Branch DuPage)	DuPage County	
IL	Kerr-McGee (Reed-Keppler Park)	West Chicago	
IL	Kerr-McGee (Residential Areas)	West Chicago/DuPage County	
IL	Kerr-McGee (Sewage Treatment Plant)	West Chicago	
IL	LaSalle Electric Utilities	LaSalle	C
IL	Lenz Oil Service, Inc	Lemont	
IL	MIG/Dewane Landfill	Belvidere	
IL	NL Industries/Taracorp Lead Smelter	Granite City	C
IL	Ottawa Radiation Areas	Ottawa	
IL	Outboard Marine Corp	Waukegan	S
IL	Pagel's Pit	Rockford	
IL	Parsons Casket Hardware Co	Belvidere	
IL	Southeast Rockford Gd Wtr Contamination	Rockford	
IL	Tri-County Landfill/Waste Mgmt Illinois	South Elgin	
IL	Velsicol Chemical Corp. (Illinois)	Marshall	C
IL	Wauconda Sand & Gravel	Wauconda	
IL	Woodstock Municipal Landfill	Woodstock	
IL	Yeoman Creek Landfill	Waukegan	
IN	American Chemical Service, Inc	Griffith	
IN	Bennett Stone Quarry	Bloomington	
IN	Carter Lee Lumber Co.	Indianapolis	C
IN	Columbus Old Municipal Landfill #1	Columbus	C
IN	Conrail Rail Yard (Elkhart)	Elkhart	
IN	Continental Steel Corp	Kokomo	
IN	Douglass Road/Uniroyal, Inc., Landfill	Mishawaka	
IN	Envirochem Corp	Zionsville	
IN	Fisher-Calo	LaPorte	
IN	Fort Wayne Reduction Dump	Fort Wayne	C
IN	Galen Myers Dump/Drum Salvage	Osceola	
IN	Himco Dump	Elkhart	
IN	Lake Sandy Jo (M&M Landfill)	Gary	C
IN	Lakeland Disposal Service, Inc.	Claypool	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
IN	Lemon Lane Landfill	Bloomington	
IN	MIDCO I	Gary	
IN	MIDCO II	Gary	
IN	Main Street Well Field	Elkhart	C
IN	Marion (Bragg) Dump	Marion	
IN	Neal's Dump (Spencer)	Spencer	
IN	Neal's Landfill (Bloomington)	Bloomington	
IN	Ninth Avenue Dump	Gary	C
IN	Northside Sanitary Landfill, Inc	Zionsville	
IN	Prestolite Battery Division	Vincennes	
IN	Reilly Tar & Chemical (Indianapolis Plant)	Indianapolis	
IN	Seymour Recycling Corp	Seymour	C,S
IN	Southside Sanitary Landfill	Indianapolis	C
IN	Tippecanoe Sanitary Landfill, Inc	Lafayette	
IN	Tri-State Plating	Columbus	C
IN	Waste, Inc., Landfill	Michigan City	
IN	Wayne Waste Oil	Columbia City	C
IN	Whiteford Sales & Service/Nationalease	South Bend	C
KS	57th and North Broadway Streets Site	Wichita Heights	
KS	Ace Services	Colby	
KS	Chemical Commodities, Inc.	Olathe	
KS	Cherokee County	Cherokee County	
KS	Doepke Disposal (Holliday)	Johnson County	
KS	Obee Road	Hutchinson	
KS	Pester Refinery Co.	El Dorado	
KS	Strother Field Industrial Park	Cowley County	
KS	Wright Ground Water Contamination	Wright	
KY	Airco	Calvert City	
KY	B.F. Goodrich	Calvert City	
KY	Brantley Landfill	Island	
KY	Caldwell Lace Leather Co., Inc.	Auburn	C
KY	Distler Brickyard	West Point	C
KY	Distler Farm	Jefferson County	C
KY	Fort Hartford Coal Co. Stone Quarry	Olaton	
KY	General Tire & Rubber (Mayfield Landfill)	Mayfield	C
KY	Green River Disposal, Inc.	Maceo	
KY	Howe Valley Landfill	Howe Valley	C
KY	Maxey Flats Nuclear Disposal	Hillsboro	
KY	National Electric Coil/Cooper Industries	Dayhoit	
KY	National Southwire Aluminum Co	Hawesville	
KY	Red Penn Sanitation Co. Landfill	PeeWee Valley	
KY	Smith's Farm	Brooks	
KY	Tri-City Disposal Co.	Shepherdsville	
LA	Agriculture Street Landfill	New Orleans	
LA	American Creosote Works, Inc (Winnfield)	Winnfield	
LA	Bayou Bonfouca	Slidell	
LA	Bayou Sorrel Site	Bayou Sorrel	C
LA	Cleve Reber	Sorrento	
LA	Combustion, Inc.	Denham Springs	
LA	D.L. Mud, Inc.	Abbeville	
LA	Dutchtown Treatment Plant	Ascension Parish	
LA	Gulf Coast Vacuum Services	Abbeville	
LA	Old Inger Oil Refinery	Darrow	S
LA	PAB Oil & Chemical Service, Inc.	Abbeville	
LA	Petro-Processors of Louisiana Inc	Scotlandville	
LA	Southern Shipbuilding	Slidell	
MA	Atlas Tack Corp	Fairhaven	
MA	Baird & McGuire	Holbrook	
MA	Blackburn & Union Privileges	Walpole	
MA	Cannon Engineering Corp. (CEC)	Bridgewater	C
MA	Charles-George Reclamation Landfill	Tyngsborough	
MA	Groveland Wells	Groveland	
MA	Haverhill Municipal Landfill	Haverhill	
MA	Hocomonco Pond	Westborough	
MA	Industri-Plex	Woburn	
MA	Iron Horse Park	Billerica	
MA	New Bedford Site	New Bedford	S
MA	Norwood PCBs	Norwood	
MA	Nyanza Chemical Waste Dump	Ashland	
MA	PSC Resources	Palmer	
MA	Re-Solve, Inc.	Dartmouth	
MA	Rose Disposal Pit	Lanesboro	C

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
MA	Salem Acres	Salem	
MA	Shpack Landfill	Norton/Attleboro	
MA	Silresim Chemical Corp	Lowell	
MA	Sullivan's Ledge	New Bedford	
MA	W.R. Grace & Co Inc (Acton Plant)	Acton	
MA	Wells G&H	Woburn	
MD	Bush Valley Landfill	Abingdon	
MD	Kane & Lombard Street Drums	Baltimore	
MD	Limestone Road	Cumberland	
MD	MId-Atlantic Wood Preservers, Inc	Harmans	C
MD	Sand, Gravel & Stone	Elkton	
MD	Southern Maryland Wood Treating	Hollywood	
MD	Spectron, Inc.	Elkton	
MD	Woodlawn County Landfill	Woodlawn	
ME	Eastern Surplus	Meddybemps	
ME	McKin Co.	Gray	C
ME	O'Connor Co.	Augusta	
ME	Pinette's Salvage Yard	Washburn	
ME	Saco Municipal Landfill	Saco	
ME	Saco Tannery Waste Pits	Saco	C
ME	Union Chemical Co., Inc.	South Hope	
ME	West Site/Hows Corners	Plymouth	
ME	Winthrop Landfill	Winthrop	
MI	Adam's Plating	Lansing	C
MI	Aircraft Components (D & L Sales)	Benton Harbor	A
MI	Albion-Sheridan Township Landfill	Albion	
MI	Allied Paper/Portage Ck/Kalamazoo River	Kalamazoo	
MI	American Anodco, Inc.	Ionia	C
MI	Auto Ion Chemicals, Inc.	Kalamazoo	C
MI	Avenue ''E'' Ground Water Contamination	Traverse City	
MI	Barrels, Inc.	Lansing	
MI	Bendix Corp./Allied Automotive	St. Joseph	
MI	Berlin & Farro	Swartz Creek	
MI	Bofors Nobel, Inc.	Muskegon	
MI	Burrows Sanitation	Hartford	C
MI	Butterworth #2 Landfill	Grand Rapids	
MI	Cannelton Industries, Inc.	Saulte Saint Marie	
MI	Carter Industrials, Inc.	Detroit	
MI	Chem Central	Wyoming Township	C
MI	Clare Water Supply	Clare	
MI	Cliff/Dow Dump	Marquette	C
MI	Duell & Gardner Landfill	Dalton Township	
MI	Electrovoice	Buchanan	
MI	Forest Waste Products	Otisville	
MI	G&H Landfill	Utica	
MI	Grand Traverse Overall Supply Co	Greilickville	C
MI	Gratiot County Landfill	St. Louis	C,S
MI	H & K Sales	Belding	A
MI	H. Brown Co., Inc	Grand Rapids	
MI	Hedblum Industries	Oscoda	C
MI	Hi-Mill Manufacturing Co	Highland	C
MI	Ionia City Landfill	Ionia	
MI	J & L Landfill	Rochester Hills	
MI	K&L Avenue Landfill	Oshtemo Township	
MI	Kaydon Corp	Muskegon	
MI	Kentwood Landfill	Kentwood	C
MI	Kysor Industrial Corp	Cadillac	
MI	Liquid Disposal, Inc	Utica	
MI	Lower Ecorse Creek Dump	Wyandotte	A
MI	Mason County Landfill	Pere Marquette Twp	C
MI	McGraw Edison Corp	Albion	
MI	Metamora Landfill	Metamora	
MI	Michigan Disposal (Cork Street Landfill)	Kalamazoo	
MI	Motor Wheel, Inc	Lansing	
MI	Muskegon Chemical Co	Whitehall	
MI	North Bronson Industrial Area	Bronson	
MI	Northernaire Plating	Cadillac	
MI	Novaco Industries	Temperance	C
MI	Organic Chemicals, Inc	Grandville	
MI	Ott/Story/Cordova Chemical Co	Dalton Township	
MI	Packaging Corp. of America	Filer City	
MI	Parsons Chemical Works, Inc	Grand Ledge	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
MI	Peerless Plating Co	Muskegon	
MI	Petoskey Municipal Well Field	Petoskey	
MI	Rasmussen's Dump	Green Oak Township	C
MI	Rockwell International Corp. (Allegan)	Allegan	
MI	Rose Township Dump	Rose Township	C
MI	Roto-Finish Co., Inc	Kalamazoo	
MI	SCA Independent Landfill	Muskegon Heights	
MI	Shiawassee River	Howell	
MI	South Macomb Disposal (Landfills 9 & 9A)	Macomb Township	
MI	Southwest Ottawa County Landfill	Park Township	C
MI	Sparta Landfill	Sparta Township	
MI	Spartan Chemical Co	Wyoming	
MI	Spiegelberg Landfill	Green Oak Township	C
MI	Springfield Township Dump	Davisburg	
MI	State Disposal Landfill, Inc	Grand Rapids	
MI	Sturgis Municipal Wells	Sturgis	
MI	Tar Lake	Mancelona Township	
MI	Thermo-Chem, Inc	Muskegon	
MI	Torch Lake	Houghton County	
MI	U.S. Aviex	Howard Township	C
MI	Velsicol Chemical Corp. (Michigan)	St. Louis	C
MI	Verona Well Field	Battle Creek	
MI	Wash King Laundry	Pleasant Plains Twp	
MI	Waste Management of Michigan (Holland)	Holland	
MN	Agate Lake Scrapyard	Fairview Township	C
MN	Arrowhead Refinery Co	Hermantown	
MN	Baytown Township Ground Water Plume	Baytown Township	
MN	Burlington Northern (Brainerd/Baxter)	Brainerd/Baxter	C
MN	FMC Corp. (Fridley Plant)	Fridley	C
MN	Freeway Sanitary Landfill	Burnsville	
MN	General Mills/Henkel Corp	Minneapolis	C
MN	Joslyn Manufacturing & Supply Co	Brooklyn Center	
MN	Koppers Coke	St. Paul	
MN	Kurt Manufacturing Co	Fridley	C
MN	LaGrand Sanitary Landfill	LaGrand Township	C
MN	Lehillier/Mankato Site	Lehillier/Mankato	C
MN	Long Prairie Ground Water Contamination	Long Prairie	
MN	MacGillis & Gibbs/Bell Lumber & Pole Co	New Brighton	
MN	NL Industries/Taracorp/Golden Auto	St. Louis Park	
MN	Nutting Truck & Caster Co	Faribault	C
MN	Oak Grove Sanitary Landfill	Oak Grove Township	C
MN	Oakdale Dump	Oakdale	C
MN	Perham Arsenic Site	Perham	
MN	Pine Bend Sanitary Landfill	Dakota County	C
MN	Reilly Tar&Chem (St. Louis Park Plant)	St. Louis Park	S
MN	Ritari Post & Pole	Sebeka	
MN	South Andover Site	Andover	C
MN	St. Augusta Sanitary Landfill/Engen Dump	St. Augusta Township	
MN	St. Louis River Site	St. Louis County	
MN	St. Regis Paper Co	Cass Lake	
MN	University Minnesota (Rosemount Res Cen)	Rosemount	C
MN	Waite Park Wells	Waite Park	
MN	Waste Disposal Engineering	Andover	C
MN	Whittaker Corp	Minneapolis	C
MN	Windom Dump	Windom	C
MO	Bee Cee Manufacturing Co	Malden	
MO	Big River Mine Tailings/St. Joe Minerals	Desloge	
MO	Conservation Chemical Co	Kansas City	C
MO	Ellisville Site	Ellisville	S
MO	Fulbright Landfill	Springfield	C
MO	Kem-Pest Laboratories	Cape Girardeau	
MO	Lee Chemical	Liberty	C
MO	Minker/Stout/Romaine Creek	Imperial	
MO	Missouri Electric Works	Cape Girardeau	
MO	Oronogo-Duenweg Mining Belt	Jasper County	
MO	Quality Plating	Sikeston	
MO	Shenandoah Stables	Moscow Mills	
MO	Solid State Circuits, Inc	Republic	C
MO	St Louis Airport/HIS/Futura Coatings Co	St. Louis County	
MO	Syntex Facility	Verona	
MO	Times Beach Site	Times Beach	
MO	Valley Park TCE	Valley Park	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
MO	Westlake Landfill	Bridgeton	
MO	Wheeling Disposal Service Co. Landfill	Amazonia	C
MS	Newsom Brothers/Old Reichhold Chemicals	Columbia	
MT	Anaconda Co. Smelter	Anaconda	
MT	East Helena Site	East Helena	
MT	Idaho Pole Co	Bozeman	
MT	Libby Ground Water Contamination	Libby	C
MT	Milltown Reservoir Sediments	Milltown	
MT	Montana Pole and Treating	Butte	
MT	Mouat Industries	Columbus	
MT	Silver Bow Creek/Butte Area	Sil Bow/Deer Lodge	
NC	ABC One Hour Cleaners	Jacksonville	
NC	Aberdeen Pesticide Dumps	Aberdeen	
NC	Benfield Industries, Inc	Hazelwood	
NC	Bypass 601 Ground Water Contamination	Concord	
NC	Cape Fear Wood Preserving	Fayetteville	
NC	Carolina Transformer Co	Fayetteville	
NC	Celanese Corp. (Shelby Fiber Operations)	Shelby	C
NC	Charles Macon Lagoon & Drum Storage	Cordova	
NC	Chemtronics, Inc	Swannanoa	C
NC	FCX, Inc. (Statesville Plant)	Statesville	
NC	FCX, Inc. (Washington Plant)	Washington	
NC	Geigy Chemical Corp. (Aberdeen Plant)	Aberdeen	
NC	General Electric Co/Shepherd Farm	East Flat Rock	
NC	JFD Electronics/Channel Master	Oxford	
NC	Jadco-Hughes Facility	Belmont	
NC	Koppers Co. Inc. (Morrisville Plant)	Morrisville	
NC	Martin-Marietta, Sodyeco, Inc	Charlotte	
NC	NC State University (Lot 86, Farm Unit #1)	Raleigh	
NC	National Starch & Chemical Corp	Salisbury	
NC	New Hanover Cnty Airport Burn Pit	Wilmington	
NC	Potter's Septic Tank Service Pits	Maco	
ND	Arsenic Trioxide Site	Southeastern ND	C,S
ND	Minot Landfill	Minot	
NE	10th Street Site	Columbus	
NE	Bruno Co-op Association/Associated Prop	Bruno	
NE	Cleburn Street Well	Grand Island	
NE	Hastings Ground Water Contamination	Hastings	
NE	Lindsay Manufacturing Co	Lindsay	C
NE	Nebraska Ordnance Plant (Former)	Mead	
NE	Ogallala Ground Water Contamination	Ogallala	
NE	Sherwood Medical Co	Norfolk	
NE	Waverly Ground Water Contamination	Waverly	C
NH	Auburn Road Landfill	Londonderry	
NH	Coakley Landfill	North Hampton	
NH	Dover Municipal Landfill	Dover	
NH	Fletcher's Paint Works & Storage	Milford	
NH	Kearsarge Metallurgical Corp	Conway	C
NH	Keefe Environmental Services	Epping	C
NH	Mottolo Pig Farm	Raymond	C
NH	New Hampshire Plating Co	Merrimack	
NH	Ottati & Goss/Kingston Steel Drum	Kingston	
NH	Savage Municipal Water Supply	Milford	
NH	Somersworth Sanitary Landfill	Somersworth	
NH	South Municipal Water Supply Well	Peterborough	C
NH	Sylvester	Nashua	C,S
NH	Tibbetts Road	Barrington	
NH	Tinkham Garage	Londonderry	C
NH	Town Garage/Radio Beacon	Londonderry	C
NJ	A. O. Polymer	Sparta Township	
NJ	American Cyanamid Co	Bound Brook	
NJ	Asbestos Dump	Millington	
NJ	Bog Creek Farm	Howell Township	C
NJ	Brick Township Landfill	Brick Township	
NJ	Bridgeport Rental & Oil Services	Bridgeport	
NJ	Brook Industrial Park	Bound Brook	
NJ	Burnt Fly Bog	Marlboro Township	
NJ	CPS/Madison Industries	Old Bridge Township	
NJ	Caldwell Trucking Co	Fairfield	
NJ	Chemical Control	Elizabeth	C
NJ	Chemical Insecticide Corp	Edison Township	
NJ	Chemical Leaman Tank Lines, Inc	Bridgeport	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
NJ	Chemsol, Inc	Piscataway	
NJ	Ciba-Geigy Corp	Toms River	
NJ	Cinnaminson Ground Water Contamination	Cinnaminson Township	
NJ	Combe Fill North Landfill	Mount Olive Township	C
NJ	Combe Fill South Landfill	Chester Township	
NJ	Cosden Chemical Coatings Corp	Beverly	
NJ	Curcio Scrap Metal, Inc	Saddle Brook Township	
NJ	D'Imperio Property	Hamilton Township	
NJ	Dayco Corp./L.E Carpenter Co	Wharton Borough	
NJ	De Rewal Chemical Co	Kingwood Township	
NJ	Delilah Road	Egg Harbor Township	
NJ	Denzer & Schafer X-Ray Co	Bayville	C
NJ	Diamond Alkali Co	Newark	
NJ	Dover Municipal Well 4	Dover Township	
NJ	Ellis Property	Evesham Township	
NJ	Evor Phillips Leasing	Old Bridge Township	
NJ	Ewan Property	Shamong Township	
NJ	Fair Lawn Well Field	Fair Lawn	
NJ	Florence Land Recontouring Landfill	Florence Township	
NJ	Franklin Burn	Franklin Township	
NJ	Fried Industries	East Brunswick Township	
NJ	GEMS Landfill	Gloucester Township	
NJ	Garden State Cleaners Co	Minotola	
NJ	Glen Ridge Radium Site	Glen Ridge	
NJ	Global Sanitary Landfill	Old Bridge Township	
NJ	Goose Farm	Plumstead Township	C
NJ	Helen Kramer Landfill	Mantua Township	C
NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown	
NJ	Higgins Disposal	Kingston	
NJ	Higgins Farm	Franklin Township	
NJ	Hopkins Farm	Plumstead Township	
NJ	Horseshoe Road	Sayreville	
NJ	Imperial Oil Co., Inc./Champion Chemicals	Morganville	
NJ	Industrial Latex Corp	Wallington Borough	
NJ	JIS Landfill	Jamesburg/S. Brnswck	
NJ	Kauffman & Minteer, Inc	Jobstown	
NJ	Kin-Buc Landfill	Edison Township	
NJ	King of Prussia	Winslow Township	C
NJ	Landfill & Development Co	Mount Holly	
NJ	Lang Property	Pemberton Township	C
NJ	Lipari Landfill	Pitman	
NJ	Lodi Municipal Well	Lodi	C
NJ	Lone Pine Landfill	Freehold Township	C
NJ	Mannheim Avenue Dump	Galloway Township	C
NJ	Maywood Chemical Co	Maywood/Rochelle Park	
NJ	Metaltec/Aerosystems	Franklin Borough	
NJ	Monitor Devices/Intercircuits Inc	Wall Township	
NJ	Montclair/West Orange Radium Site	Montclair/W Orange	
NJ	Montgomery Township Housing Development	Montgomery Township	
NJ	Myers Property	Franklin Township	
NJ	NL Industries	Pedricktown	
NJ	Nascolite Corp	Millville	
NJ	PJP Landfill	Jersey City	
NJ	Pepe Field	Boonton	
NJ	Pijak Farm	Plumstead Township	
NJ	Pohatcong Valley Ground Water Contaminat	Warren County	
NJ	Pomona Oaks Residential Wells	Galloway Township	C
NJ	Price Landfill	Pleasantville	S
NJ	Radiation Technology, Inc	Rockaway Township	
NJ	Reich Farms	Pleasant Plains	
NJ	Renora, Inc	Edison Township	
NJ	Rockaway Borough Well Field	Rockaway Township	
NJ	Rockaway Township Wells	Rockaway	
NJ	Rocky Hill Municipal Well	Rocky Hill Borough	
NJ	Roebling Steel Co	Florence	
NJ	Sayreville Landfill	Sayreville	
NJ	Scientific Chemical Processing	Carlstadt	
NJ	Sharkey Landfill	Parsippany/Troy Hls	
NJ	Shieldalloy Corp	Newfield Borough	
NJ	South Brunswick Landfill	South Brunswick	C
NJ	South Jersey Clothing Co	Minotola	
NJ	Spence Farm	Plumstead Township	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
NJ	Swope Oil & Chemical Co	Pennsauken	
NJ	Syncon Resins	South Kearny	
NJ	Tabernacle Drum Dump	Tabernacle Township	C
NJ	U.S. Radium Corp	Orange	
NJ	Universal Oil Products (Chemical Division)	East Rutherford	
NJ	Upper Deerfield Township Sanit. Landfill	Upper Deerfield Township	C
NJ	Ventron/Velsicol	Wood Ridge Borough	
NJ	Vineland Chemical Co., Inc	Vineland	
NJ	Vineland State School	Vineland	C
NJ	Waldick Aerospace Devices, Inc	Wall Township	
NJ	Welsbach & General Gas Mantle (Camden)	Camden and Gloucester City	
NJ	White Chemical Corp	Newark	A
NJ	Williams Property	Swainton	C
NJ	Wilson Farm	Plumstead Township	C
NJ	Woodland Route 532 Dump	Woodland Township	
NJ	Woodland Route 72 Dump	Woodland Township	
NM	AT & SF (Clovis)	Clovis	
NM	AT&SF (Albuquerque)	Albuquerque	
NM	Cimarron Mining Corp	Carrizozo	C
NM	Cleveland Mill	Silver City	
NM	Homestake Mining Co	Milan	
NM	Prewitt Abandoned Refinery	Prewitt	
NM	South Valley	Albuquerque	S
NM	United Nuclear Corp	Church Rock	
NV	Carson River Mercury Site	Lyon/Churchill Cnty	
NY	American Thermostat Co	South Cairo	
NY	Anchor Chemicals	Hicksville	
NY	Applied Environmental Services	Glenwood Landing	
NY	Batavia Landfill	Batavia	
NY	Brewster Well Field	Putnam County	
NY	Byron Barrel & Drum	Byron	
NY	Carroll & Dubies Sewage Disposal	Port Jervis	
NY	Circuitron Corp	East Farmingdale	
NY	Claremont Polychemical	Old Bethpage	
NY	Colesville Municipal Landfill	Town of Colesville	
NY	Conklin Dumps	Conklin	
NY	Cortese Landfill	Village of Narrowsburg	
NY	Endicott Village Well Field	Village of Endicott	
NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	
NY	Facet Enterprises, Inc	Elmira	
NY	Forest Glen Mobile Home Subdivision	Niagara Falls	A
NY	Fulton Terminals	Fulton	
NY	GCL Tie & Treating Inc	Village of Sidney	
NY	GE Moreau	South Glen Falls	
NY	General Motors (Central Foundry Division)	Massena s	
NY	Genzale Plating Co	Franklin Square	
NY	Goldisc Recordings, Inc	Holbrook	
NY	Haviland Complex	Town of Hyde Park	
NY	Hertel Landfill	Plattekill	
NY	Hooker (102nd Street)	Niagara Falls	
NY	Hooker (Hyde Park)	Niagara Falls	
NY	Hooker (S Area)	Niagara Falls	
NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	
NY	Hudson River PCBs	Hudson River	
NY	Islip Municipal Sanitary Landfill	Islip	
NY	Johnstown City Landfill	Town of Johnstown	
NY	Jones Chemicals, Inc	Caledonia	
NY	Jones Sanitation	Hyde Park	
NY	Katonah Municipal Well	Town of Bedford	C
NY	Kentucky Avenue Well Field	Horseheads	
NY	Li Tungsten Corp	Glen Cove	
NY	Liberty Industrial Finishing	Farmingdale	
NY	Little Valley	Little Valley	A
NY	Love Canal	Niagara Falls	
NY	Ludlow Sand & Gravel	Clayville	
NY	Malta Rocket Fuel Area	Malta	
NY	Marathon Battery Corp	Cold Springs	C
NY	Mattiace Petrochemical Co., Inc	Glen Cove	
NY	Mercury Refining, Inc	Colonie	
NY	Nepera Chemical Co., Inc	Maybrook	
NY	Niagara County Refuse	Wheatfield	
NY	Niagara Mohawk Power Co. (Saratoga Springs)	Saratoga Springs	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
NY	North Sea Municipal Landfill	North Sea	C
NY	Old Bethpage Landfill	Oyster Bay	C
NY	Olean Well Field	Olean	
NY	Onondaga Lake	Syracuse	
NY	Pasley Solvents & Chemicals, Inc	Hempstead	
NY	Pfohl Brothers Landfill	Cheektowaga	
NY	Pollution Abatement Services	Oswego	S
NY	Port Washington Landfill	Port Washington	
NY	Preferred Plating Corp	Farmingdale	
NY	Ramapo Landfill	Ramapo	
NY	Richardson Hill Road Landfill/Pond	Sidney Center	
NY	Robintech, Inc./National Pipe Co	Town of Vestal	
NY	Rosen Brothers Scrap Yard/Dump	Cortland	
NY	Rowe Industries Gnd Water Contamination	Noyack/Sag Harbor	
NY	SMS Instruments, Inc	Deer Park	C
NY	Sarney Farm	Amenia	
NY	Sealand Restoration, Inc	Lisbon	
NY	Sidney Landfill	Sidney	
NY	Sinclair Refinery	Wellsville	
NY	Solvent Savers	Lincklaen	
NY	Syosset Landfill	Oyster Bay	
NY	Tri-Cities Barrel Co., Inc	Port Crane	
NY	Tronic Plating Co., Inc	Farmingdale	C
NY	Vestal Water Supply Well 1–1	Vestal	
NY	Vestal Water Supply Well 4–2	Vestal	
NY	Volney Municipal Landfill	Town of Volney	
NY	Warwick Landfill	Warwick	
NY	York Oil Co	Moira	
OH	Allied Chemical & Ironton Coke	Ironton	
OH	Alsco Anaconda	Gnadenhutten	
OH	Arcanum Iron & Metal	Darke County	
OH	Big D Campground	Kingsville	C
OH	Bowers Landfill	Circleville	C
OH	Buckeye Reclamation	St. Clairsville	
OH	Chem-Dyne	Hamilton	C,S
OH	Coshocton Landfill	Franklin Township	
OH	E.H. Schilling Landfill	Hamilton Township	C
OH	Fields Brook	Ashtabula	
OH	Fultz Landfill	Jackson Township	
OH	Industrial Excess Landfill	Uniontown	
OH	Laskin/Poplar Oil Co	Jefferson Township	C
OH	Miami County Incinerator	Troy	
OH	Nease Chemical	Salem	
OH	New Lyme Landfill	New Lyme	C
OH	North Sanitary Landfill	Dayton	
OH	Old Mill	Rock Creek	C
OH	Ormet Corp	Hannibal	
OH	Powell Road Landfill	Dayton	
OH	Pristine, Inc	Reading	
OH	Reilly Tar & Chemical (Dover Plant)	Dover	
OH	Republic Steel Corp. Quarry	Elyria	C
OH	Sanitary Landfill Co. (Industrial Waste)	Dayton	
OH	Skinner Landfill	West Chester	
OH	South Point Plant	South Point	
OH	Summit National	Deerfield Township	C
OH	TRW, Inc. (Minerva Plant)	Minerva	C
OH	United Scrap Lead Co., Inc	Troy	
OH	Van Dale Junkyard	Marietta	
OH	Zanesville Well Field	Zanesville	
OK	Compass Industries (Avery Drive)	Tulsa	C
OK	Double Eagle Refinery Co	Oklahoma City	
OK	Fourth Street Abandoned Refinery	Oklahoma City	
OK	Hardage/Criner	Criner	
OK	Mosley Road Sanitary Landfill	Oklahoma City	
OK	Oklahoma Refining Co	Cyril	
OK	Sand Springs Petrochemical Complex	Sand Springs	
OK	Tar Creek (Ottawa County)	Ottawa County	
OK	Tenth Street Dump/Junkyard	Oklahoma City	
OR	Gould, Inc	Portland	
OR	Joseph Forest Products	Joseph	C
OR	Martin-Marietta Aluminum Co	The Dalles	C
OR	McCormick & Baxter Creos. Co. (Portland)	Portland	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
OR	Northwest Pipe & Casing Co	Clackamas	
OR	Reynolds Metals Company	Troutdale	
OR	Teledyne Wah Chang	Albany	
OR	Union Pacific Railroad Tie Treatment	The Dalles	
OR	United Chrome Products, Inc	Corvallis	C
PA	A.I.W. Frank/Mid-County Mustang	Exton	
PA	AMP, Inc. (Glen Rock Facility)	Glen Rock	
PA	Aladdin Plating	Scott Township	
PA	Ambler Asbestos Piles	Ambler	C
PA	Austin Avenue Radiation Site	Delaware County	A
PA	Avco Lycoming (Williamsport Division)	Williamsport	
PA	Bally Ground Water Contamination	Bally Borough	
PA	Bell Landfill	Terry Township	
PA	Bendix Flight Systems Division	Bridgewater Township	
PA	Berkley Products Co. Dump	Denver	
PA	Berks Landfill	Spring Township	
PA	Berks Sand Pit	Longswamp Township	C
PA	Blosenski Landfill	West Caln Township	
PA	Boarhead Farms	Bridgeton Township	
PA	Breslube-Penn, Inc	Coraopolis	
PA	Brodhead Creek	Stroudsburg	
PA	Brown's Battery Breaking	Shoemakersville	
PA	Bruin Lagoon	Bruin Borough	C
PA	Butler Mine Tunnel	Pittston	
PA	Butz Landfill	Stroudsburg	
PA	C & D Recycling	Foster Township	
PA	Centre County Kepone	State College Borough	
PA	Commodore Semiconductor Group	Lower Providence Township	
PA	Craig Farm Drum	Parker	C
PA	Crater Resources/Keystone Coke/Alan Wood	Upper Merion Township	
PA	Crossley Farm	Hereford Township	
PA	Croydon TCE	Croydon	
PA	CryoChem, Inc	Worman	
PA	Delta Quarries & Disp./Stotler Landfill	Antis/Logan Twps	
PA	Dorney Road Landfill	Upper Macungie Township	
PA	Douglassville Disposal	Douglassville	
PA	Drake Chemical	Lock Haven	
PA	Dublin TCE Site	Dublin Borough	
PA	East Mount Zion	Springettsbury Township	
PA	Eastern Diversified Metals	Hometown	
PA	Elizabethtown Landfill	Elizabethtown	
PA	Fischer & Porter Co	Warminster	
PA	Foote Mineral Co	East Whiteland Township	
PA	Havertown PCP	Haverford	
PA	Hebelka Auto Salvage Yard	Weisenberg Township	C
PA	Heleva Landfill	North Whitehall Township	
PA	Hellertown Manufacturing Co	Hellertown	
PA	Henderson Road	Upper Merion Township	C
PA	Hranica Landfill	Buffalo Township	C
PA	Hunterstown Road	Straban Township	
PA	Industrial Lane	Williams Township	
PA	Jacks Creek/Sitkin Smelting and Refinery	Maitland	
PA	Keystone Sanitation Landfill	Union Township	
PA	Kimberton Site	Kimberton Borough	C
PA	Lackawanna Refuse	Old Forge Borough	C
PA	Lindane Dump	Harrison Township	
PA	Lord-Shope Landfill	Girard Township	
PA	MW Manufacturing	Valley Township	
PA	Malvern TCE	Malvern	
PA	McAdoo Associates	McAdoo Borough	C,S
PA	Metal Banks	Philadelphia	
PA	Metropolitan Mirror and Glass	Frackville	
PA	Middletown Air Field	Middletown	
PA	Mill Creek Dump	Erie	
PA	Modern Sanitation Landfill	Lower Windsor Township	
PA	Moyers Landfill	Eagleville	
PA	North Penn—Area 1	Souderton	
PA	North Penn—Area 12	Worcester	
PA	North Penn—Area 2	Hatfield	
PA	North Penn—Area 5	Montgomery Township	
PA	North Penn—Area 6	Lansdale	
PA	North Penn—Area 7	North Wales	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
PA	Novak Sanitary Landfill	South Whitehall Township	
PA	Occidental Chemical Corp./Firestone Tire	Lower Pottsgrove Township	
PA	Ohio River Park	Neville Island	
PA	Old City of York Landfill	Seven Valleys	
PA	Osborne Landfill	Grove City	
PA	Palmerton Zinc Pile	Palmerton	
PA	Paoli Rail Yard	Paoli	
PA	Publicker Industries Inc	Philadephia	
PA	Raymark	Hatboro	C
PA	Recticon/Allied Steel Corp	East Coventry Twp	
PA	Resin Disposal	Jefferson Borough	
PA	Revere Chemical Co	Nockamixon Township	
PA	River Road Landfill/Waste Mngmnt, Inc	Hermitage	
PA	Rodale Manufacturing Co., Inc	Emmaus Borough	
PA	Route 940 Drum Dump	Pocono Summit	C
PA	Saegertown Industrial Area	Saegertown	
PA	Shriver's Corner	Straban Township	
PA	Stanley Kessler	King of Prussia	
PA	Strasburg Landfill	Newlin Township	
PA	Taylor Borough Dump	Taylor Borough	C
PA	Tonolli Corp	Nesquehoning	
PA	Tysons Dump	Upper Merion Twp	
PA	UGI Columbia Gas Plant	Columbia	
PA	Walsh Landfill	Honeybrook Township	
PA	Westinghouse Electronic (Sharon Plant)	Sharon	
PA	Westinghouse Elevator Co. Plant	Gettysburg	
PA	Whitmoyer Laboratories	Jackson Township	
PA	William Dick Lagoons	West Caln Township	
PA	York County Solid Waste/Refuse Landfill	Hopewell Township	C
PR	Barceloneta Landfill	Florida Afuera	
PR	Fibers Public Supply Wells	Jobos	
PR	Frontera Creek	Rio Abajo	
PR	GE Wiring Devices	Juana Diaz	
PR	Juncos Landfill	Juncos	
PR	RCA Del Caribe	Barceloneta	
PR	Upjohn Facility	Barceloneta	
PR	Vega Alta Public Supply Wells	Vega Alta	
RI	Central Landfill	Johnston	
RI	Davis (GSR) Landfill	Glocester	
RI	Davis Liquid Waste	Smithfield	
RI	Landfill & Resource Recovery, Inc. (L&RR)	North Smithfield	
RI	Peterson/Puritan, Inc	Lincoln/Cumberland	
RI	Picillo Farm	Coventry	S
RI	Rose Hill Regional Landfill	South Kingston	
RI	Stamina Mills, Inc	North Smithfield	
RI	West Kingston Town Dump/URI Disposal	South Kingston	
RI	Western Sand & Gravel	Burrillville	C
SC	Aqua-Tech Environmental Inc (Groce Labs)	Greer	
SC	Beaunit Corp. (Circular Knit & Dye)	Fountain Inn	
SC	Carolawn, Inc	Fort Lawn	
SC	Elmore Waste Disposal	Greer	
SC	Geiger (C & M Oil)	Rantoules	
SC	Golden Strip Septic Tank Service	Simpsonville	
SC	Helena Chemical Co. Landfill	Fairfax	
SC	Kalama Specialty Chemicals	Beaufort	
SC	Koppers Co., Inc. (Charleston Plant)	Charleston	
SC	Koppers Co., Inc. (Florence Plant)	Florence	
SC	Leonard Chemical Co., Inc	Rock Hill	
SC	Lexington County Landfill Area	Cayce	
SC	Medley Farm Drum Dump	Gaffney	C
SC	Palmetto Recycling, Inc	Columbia	
SC	Palmetto Wood Preserving	Dixiana	
SC	Para-Chem Southern, Inc	Simpsonville	
SC	Rochester Property	Travelers Rest	C
SC	Rock Hill Chemical Co	Rock Hill	
SC	SCRDI Bluff Road	Columbia	S
SC	SCRDI Dixiana	Cayce	C
SC	Sangamo Weston/Twelve-Mile/Hartwell PCB	Pickens	
SC	Townsend Saw Chain Co	Pontiac	
SC	Wamchem, Inc	Burton	
SD	Whitewood Creek	Whitewood	C,S
SD	Williams Pipe Line Co. Disposal Pit	Sioux Falls	C

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
TN	American Creosote Works, (Jackson Plant)	Jackson	
TN	Arlington Blending & Packaging	Arlington	
TN	Carrier Air Conditioning Co	Collierville	C
TN	Chemet Co	Moscow	
TN	ICG Iselin Railroad Yard	Jackson	
TN	Mallory Capacitor Co	Waynesboro	
TN	Murray-Ohio Dump	Lawrenceburg	
TN	North Hollywood Dump	Memphis	S
TN	Tennessee Products	Chattanooga	A
TN	Velsicol Chemical Corp (Hardeman County)	Toone	
TN	Wrigley Charcoal Plant	Wrigley	
TX	ALCOA (Point Comfort)/Lavaca Bay	Point Comfort	
TX	Bailey Waste Disposal	Bridge City	
TX	Bio-Ecology Systems, Inc	Grand Prairie	C
TX	Brio Refining, Inc	Friendswood	
TX	Crystal Chemical Co	Houston	
TX	Dixie Oil Processors, Inc	Friendswood	C
TX	French, Ltd	Crosby	C
TX	Geneva Industries/Fuhrmann Energy	Houston	C
TX	Highlands Acid Pit	Highlands	C
TX	Koppers Co Inc (Texarkana Plant)	Texarkana	
TX	Motco, Inc	La Marque	S
TX	North Cavalcade Street	Houston	
TX	Odessa Chromium #1	Odessa	C
TX	Odessa Chromium #2 (Andrews Highway)	Odessa	C
TX	Petro-Chemical Systems, (Turtle Bayou)	Liberty County	
TX	RSR Corp	Dallas	
TX	Sheridan Disposal Services	Hempstead	
TX	Sikes Disposal Pits	Crosby	C
TX	Sol Lynn/Industrial Transformers	Houston	C
TX	South Cavalcade Street	Houston	
TX	Texarkana Wood Preserving Co	Texarkana	
TX	Triangle Chemical Co	Bridge City	C
TX	United Creosoting Co	Conroe	
UT	Midvale Slag	Midvale	
UT	Monticello Radioactive Contaminated Prop	Monticello	
UT	Petrochem Recycling Corp./Ekotek Plant	Salt Lake City	
UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	
UT	Rose Park Sludge Pit	Salt Lake City	C,S
UT	Sharon Steel Corp. (Midvale Tailings)	Midvale	
UT	Utah Power & Light/American Barrel Co	Salt Lake City	
UT	Wasatch Chemical Co (Lot 6)	Salt Lake City	
VA	Abex Corp	Portsmouth	
VA	Arrowhead Associates/Scovill Corp	Montross	
VA	Atlantic Wood Industries, Inc	Portsmouth	
VA	Avtex Fibers, Inc	Front Royal	
VA	Buckingham County Landfill	Buckingham	
VA	C & R Battery Co., Inc	Chesterfield County	C
VA	Chisman Creek	York County	C
VA	Culpeper Wood Preservers, Inc	Culpeper	
VA	Dixie Caverns County Landfill	Salem	
VA	First Piedmont Rock Quarry (Route 719)	Pittsylvania County	C
VA	Greenwood Chemical Co	Newtown	
VA	H & H Inc., Burn Pit	Farrington	
VA	L.A. Clarke & Son	Spotsylvania County	
VA	Rentokil, Inc. (VA Wood Preserving Div)	Richmond	
VA	Rhinehart Tire Fire Dump	Frederick County	
VA	Saltville Waste Disposal Ponds	Saltville	
VA	Saunders Supply Co	Chuckatuck	
VA	U.S. Titanium	Piney River	
VI	Island Chemical Corp/V.I. Chemical Corp	Christiansted	
VI	Tutu Wellfield	Tutu	
VT	BFI Sanitary Landfill (Rockingham)	Rockingham	
VT	Bennington Municipal Sanitary Landfill	Bennington	
VT	Burgess Brothers Landfill	Woodford	
VT	Darling Hill Dump	Lyndon	C
VT	Old Springfield Landfill	Springfield	C
VT	Parker Sanitary Landfill	Lyndon	
VT	Pine Street Canal	Burlington	S
VT	Tansitor Electronics, Inc	Bennington	
WA	ALCOA (Vancouver Smelter)	Vancouver	
WA	American Crossarm & Conduit Co	Chehalis	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
WA	Boomsnub/Airco	Vancouver	S
WA	Centralia Municipal Landfill	Centralia	
WA	Colbert Landfill	Colbert	
WA	Commencement Bay, Near Shore/Tide Flats	Pierce County	
WA	Commencement Bay, South Tacoma Channel	Tacoma	
WA	FMC Corp. (Yakima Pit)	Yakima	C
WA	Frontier Hard Chrome, Inc	Vancouver	
WA	General Electric Co. (Spokane Shop)	Spokane	
WA	Greenacres Landfill	Spokane County	
WA	Harbor Island (Lead)	Seattle	
WA	Hidden Valley Landfill (Thun Field)	Pierce County	
WA	Kaiser Aluminum Mead Works	Mead	
WA	Lakewood Site	Lakewood	C
WA	Mica Landfill	Mica	
WA	Midway Landfill	Kent	
WA	Moses Lake Wellfield Contamination	Moses Lake	
WA	North Market Street	Spokane	
WA	Northside Landfill	Spokane	C
WA	Northwest Transformer	Everson	C
WA	Northwest Transformer (South Harkness St)	Everson	C
WA	Old Inland Pit	Spokane	
WA	Pacific Car & Foundry Co	Renton	
WA	Pacific Sound Resources	Seattle	
WA	Pasco Sanitary Landfill	Pasco	
WA	Queen City Farms	Maple Valley	
WA	Seattle Municipal Landfill (Kent Hghlnds)	Kent	C
WA	Silver Mountain Mine	Loomis	C
WA	Spokane Junkyard/Associated Properties	Spokane	
WA	Tulalip Landfill	Marysville	
WA	Vancouver Water Station #1 Contamination	Vancouver	
WA	Vancouver Water Station #4 Contamination	Vancouver	
WA	Western Processing Co., Inc	Kent	C
WA	Wyckoff Co./Eagle Harbor	Bainbridge Island	
WI	Algoma Municipal Landfill	Algoma	C
WI	Better Brite Plating Chrome & Zinc Shops	DePere	
WI	City Disposal Corp. Landfill	Dunn	
WI	Delavan Municipal Well #4	Delavan	
WI	Eau Claire Municipal Well Field	Eau Claire	C
WI	Fadrowski Drum Disposal	Franklin	C
WI	Hagen Farm	Stoughton	
WI	Hechimovich Sanitary Landfill	Williamstown	
WI	Hunts Disposal Landfill	Caledonia	
WI	Janesville Ash Beds	Janesville	
WI	Janesville Old Landfill	Janesville	
WI	Kohler Co. Landfill	Kohler	
WI	Lauer I Sanitary Landfill	Menomonee Falls	
WI	Lemberger Landfill, Inc	Whitelaw	
WI	Lemberger Transport & Recycling	Franklin Township	
WI	Madison Metropolitan Sewerage District	Blooming Grove	
WI	Master Disposal Service Landfill	Brookfield	
WI	Mid-State Disposal, Inc. Landfill	Cleveland Township	C
WI	Moss-American (Kerr-McGee Oil Co.)	Milwaukee	
WI	Muskego Sanitary Landfill	Muskego	
WI	N.W. Mauthe Co., Inc	Appleton	S
WI	National Presto Industries, Inc	Eau Claire	
WI	Northern Engraving Co	Sparta	C
WI	Oconomowoc Electroplating Co. Inc	Ashippin	
WI	Omega Hills North Landfill	Germantown	
WI	Onalaska Municipal Landfill	Onalaska	C
WI	Penta Wood Products	Daniels	
WI	Refuse Hideaway Landfill	Middleton	
WI	Ripon City Landfill	Ripon	
WI	Sauk County Landfill	Excelsior	C
WI	Schmalz Dump	Harrison	C
WI	Scrap Processing Co., Inc	Medford	
WI	Sheboygan Harbor & River	Sheboygan	
WI	Spickler Landfill	Spencer	
WI	Stoughton City Landfill	Stoughton	
WI	Tomah Armory	Tomah	
WI	Tomah Fairgrounds	Tomah	
WI	Tomah Municipal Sanitary Landfill	Tomah	
WI	Waste Mgmt of WI (Brookfield Sanit LF)	Brookfield	

TABLE 1.—GENERAL SUPERFUND SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
WI	Wausau Ground Water Contamination	Wausau	C
WI	Wheeler Pit	La Prairie Township	C
WV	Fike Chemical, Inc	Nitro	
WV	Follansbee Site	Follansbee	
WV	Leetown Pesticide	Leetown	C
WV	Ordnance Works Disposal Areas	Morgantown	
WY	Baxter/Union Pacific Tie Treating	Laramie	
WY	Mystery Bridge Rd/U.S. Highway 20	Evansville	C

[a] A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).
C = Sites on construction completion list.
S = State top priority (included among the 100 top priority sites regardless of score).

TABLE 2.—FEDERAL FACILITIES SECTION, JUNE 1996

State	Site name	City/county	Notes[a]
AK	Adak Naval Air Station	Adak	
AK	Eielson Air Force Base	Fairbanks N Star Borough	
AK	Elmendorf Air Force Base	Greater Anchorage Borough	
AK	Fort Richardson (USARMY)	Anchorage	
AK	Fort Wainwright	Fairbanks N Star Borough	
AK	Standard Steel&Metals Salvage Yard(USDOT	Anchorage	
AL	Alabama Army Ammunition Plant	Childersburg	
AL	Anniston Army Depot (SE Industrial Area)	Anniston	
AL	Redstone Arsenal (USARMY/NASA)	Huntsville	
AZ	Luke Air Force Base	Glendale	
AZ	Williams Air Force Base	Chandler	
AZ	Yuma Marine Corps Air Station	Yuma	
CA	Barstow Marine Corps Logistics Base	Barstow	
CA	Camp Pendleton Marine Corps Base	San Diego County	
CA	Castle Air Force Base	Merced	
CA	Concord Naval Weapons Station	Concord	
CA	Edwards Air Force Base	Kern County	
CA	El Toro Marine Corps Air Station	El Toro	
CA	Fort Ord	Marina	
CA	George Air Force Base	Victorville	
CA	Jet Propulsion Laboratory (NASA)	Pasadena	
CA	LEHR/Old Campus Landfill (USDOE)	Davis	
CA	Lawrence Livermore Lab Site 300 (USDOE)	Livermore	
CA	Lawrence Livermore Laboratory (USDOE)	Livermore	
CA	March Air Force Base	Riverside	
CA	Mather Air Force Base	Sacramento	
CA	McClellan Air Force Base (GW Contam)	Sacramento	
CA	Moffett Naval Air Station	Sunnyvale	
CA	Norton Air Force Base	San Bernardino	
CA	Riverbank Army Ammunition Plant	Riverbank	
CA	Sacramento Army Depot	Sacramento	
CA	Sharpe Army Depot	Lathrop	
CA	Tracy Defense Depot (USARMY)	Tracy	
CA	Travis Air Force Base	Solano County	
CA	Treasure Island Naval Station-Hun Pt An	San Francisco	
CO	Air Force Plant PJKS	Waterton	
CO	Rocky Flats Plant (USDOE)	Golden	
CO	Rocky Mountain Arsenal (USARMY)	Adams County	
CT	New London Submarine Base	New London	
DE	Dover Air Force Base	Dover	
FL	Cecil Field Naval Air Station	Jacksonville	
FL	Homestead Air Force Base	Homestead	
FL	Jacksonville Naval Air Station	Jacksonville	
FL	Pensacola Naval Air Station	Pensacola	
FL	Whiting Field Naval Air Station	Milton	
GA	Marine Corps Logistics Base	Albany	
GA	Robins Air Force Base (Lf#4/Sludge lagoon)	Houston County	
GU	Andersen Air Force Base	Yigo	
HI	Naval Computer & Telecommunications Area	Oahu	
HI	Pearl Harbor Naval Complex	Pearl Harbor	
HI	Schofield Barracks (USARMY)	Oahu	
IA	Iowa Army Ammunition Plant	Middletown	
ID	Idaho National Engineering Lab (USDOE)	Idaho Falls	
ID	Mountain Home Air Force Base	Mountain Home	

TABLE 2.—FEDERAL FACILITIES SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
IL	Joliet Army Ammunition Plant (LAP Area)	Joliet	
IL	Joliet Army Ammunition Plant (Mfg Area)	Joliet	
IL	Sangamo Electric/Crab Orchard NWR (USDOI)	Carterville	
IL	Savanna Army Depot Activity	Savanna	
KS	Fort Riley	Junction City	
KY	Paducah Gaseous Diffusion Plant (USDOE)	Paducah	
LA	Louisiana Army Ammunition Plant	Doyline	
MA	Fort Devens	Fort Devens	
MA	Fort Devens-Sudbury Training Annex	Middlesex County	
MA	Hanscom Field/Hanscom Air Force Base	Bedford	
MA	Materials Technology Laboratory (USARMY)	Watertown	
MA	Natick Laboratory Army Research, D&E Cntr	Natick	
MA	Naval Weapons Industrial Reserve Plant	Bedford	
MA	Otis Air National Guard (USAF)	Falmouth	
MA	South Weymouth Naval Air Station	Weymouth	
MD	Aberdeen Proving Ground (Edgewood Area)	Edgewood	
MD	Aberdeen Proving Ground (Michaelsville LF)	Aberdeen	
MD	Beltsville Agricultural Research (USDA)	Beltsville	
MD	Indian Head Naval Surface Warfare Center	Indian Head	
MD	Patuxent River Naval Air Station	St. Mary's County	
ME	Brunswick Naval Air Station	Brunswick	
ME	Loring Air Force Base	Limestone	
ME	Portsmouth Naval Shipyard	Kittery	
MN	Naval Industrial Reserve Ordnance Plant	Fridley	
MN	New Brighton/Arden Hills/TCAAP (USARMY)	New Brighton	
MN	Twin Cities Air Force Base (SAR Landfill)	Minneapolis	C
MO	Lake City Army Ammu. Plant (NW Lagoon)	Independence	
MO	Weldon Spring Former Army Ordnance Works	St. Charles County	
MO	Weldon Spring Quarry/Plant/Pitts (USDOE)	St. Charles County	
NC	Camp Lejeune Military Res. (USNAVY)	Onslow County	
NC	Cherry Point Marine Corps Air Station	Havelock	
NE	Cornhusker Army Ammunition Plant	Hall County	
NH	Pease Air Force Base	Portsmouth/Newington	
NJ	Federal Aviation Admin. Tech. Center	Atlantic County	
NJ	Fort Dix (Landfill Site)	Pemberton Township	
NJ	Naval Air Engineering Center	Lakehurst	
NJ	Naval Weapons Station Earle (Site A)	Colts Neck	
NJ	Picatinny Arsenal (USARMY)	Rockaway Township	
NJ	W.R. Grace/Wayne Interim Storage (USDOE)	Wayne Township	
NM	Cal West Metals (USSBA)	Lemitar	C
NM	Lee Acres Landfill (USDOI)	Farmington	
NY	Brookhaven National Laboratory (USDOE)	Upton	
NY	Griffiss Air Force Base	Rome	
NY	Plattsburgh Air Force Base	Plattsburgh	
NY	Seneca Army Depot	Romulus	
OH	Feed Materials Production Center (USDOE)	Fernald	
OH	Mound Plant (USDOE)	Miamisburg	
OH	Wright-Patterson Air Force Base	Dayton	
OK	Tinker Air Force (Soldier Cr/Bldg 300)	Oklahoma City	
OR	Fremont Nat. Forest Uranium Mines (USDA)	Lakeview	
OR	Umatilla Army Depot (Lagoons)	Hermiston	
PA	Letterkenny Army Depot (PDO Area)	Franklin County	
PA	Letterkenny Army Depot (SE Area)	Chambersburg	
PA	Naval Air Development Center (8 Areas)	Warminster Township	
PA	Navy Ships Parts Control Center	Mechanicsburg	
PA	Tobyhanna Army Depot	Tobyhanna	
PA	Willow Grove Naval Air & Air Res. Stn	Willow Grove	
PR	Naval Security Group Activity	Sabana Seca	
RI	Davisville Naval Construction Batt Cent	North Kingston	
RI	Newport Naval Education/Training Center	Newport	
SC	Parris Island Marine Corps Recruit Depot	Parris Island	
SC	Savannah River Site (USDOE)	Aiken	
SD	Ellsworth Air Force Base	Rapid City	
TN	Memphis Defense Depot (DLA)	Memphis	
TN	Milan Army Ammunition Plant	Milan	
TN	Oak Ridge Reservation (USDOE)	Oak Ridge	
TX	Air Force Plant #4 (General Dynamics)	Fort Worth	
TX	Lone Star Army Ammunition Plant	Texarkana	
TX	Longhorn Army Ammunition Plant	Karnack	
TX	Pantex Plant (USDOE)	Pantex Village	
UT	Hill Air Force Base	Ogden	
UT	Monticello Mill Tailings (USDOE)	Monticello	

TABLE 2.—FEDERAL FACILITIES SECTION, JUNE 1996—Continued

State	Site name	City/county	Notes[a]
UT	Ogden Defense Depot (DLA)	Ogden	C
UT	Tooele Army Depot (North Area)	Tooele	
VA	Defense General Supply Center (DLA)	Chesterfield County	
VA	Fort Eustis (US Army)	Newport News	
VA	Langley Air Force Base/NASA Langley Cntr	Hampton	
VA	Marine Corps Combat Development Command	Quantico	
VA	Naval Surface Warfare—Dahlgren	Dahlgren	
VA	Naval Weapons Station—Yorktown	Yorktown	
WA	American Lake Gardens/McChord AFB	Tacoma	C
WA	Bangor Naval Submarine Base	Silverdale	
WA	Bangor Ordinance Disposal (US NAVY)	Bremerton	
WA	Bonneville Power Admin Ross (USDOE)	Vancouver	C
WA	Fairchild Air Force Base (4 Waste Areas)	Spokane County	
WA	Fort Lewis Logistics Center	Tillicum	
WA	Hanford 100-Area (USDOE)	Benton County	
WA	Hanford 1100-Area (USDOE)	Benton County	
WA	Hanford 200-Area (USDOE)	Benton County	
WA	Hanford 300-Area (USDOE)	Benton County	
WA	Jackson Park Housing Complex (USNAVY)	Kitsap County	
WA	McChord Air Force Base (Wash Rack/Treat)	Tacoma	C
WA	Naval Air Station, Whidbey Island (Ault)	Whidbey Island	
WA	Naval Undersea Warfare Station (4 Areas)	Keyport	
WA	Old Navy Dump/Manchester Lab (USEPA/NOAA)	Manchester	
WA	Port Hadlock Detachment (USNAVY)	Indian Island	
WA	Puget Sound Naval Shipyard Complex	Bremerton	
WV	Allegany Ballistics Laboratory (USNAVY)	Mineral	
WV	West Virginia Ordinance (USARMY)	Point Pleasant	S
WY	F.E. Warren Air Force Base	Cheyenne	

[a] A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).
C = Sites on construction completion list.
S = State top priority (included among the 100 top priority sites regardless of score).

[FR Doc. 96–15032 Filed 6–14–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[FCC 96–240]

Subsidiary Accounting Requirements Concerning Video Dialtone Costs and Revenues for Local Exchange Carriers Offering Video Dialtone Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order requires LECs to change the classification of asynchronous transfer mode (ATM) switches from circuit equipment to switching equipment for the purposes of assigning investment to accounts in the Uniform System of Accounts. This Memorandum Opinion and Order disposes of six Applications for Review filed by or on behalf of local exchange carriers. The Memorandum Opinion and Order is intended to clarify the proper accounting treatment for the local exchange carriers' investment in ATM equipment.

EFFECTIVE DATE: July 17, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas David, Tariff Division, Common Carrier Bureau, (202) 418–0850.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order adopted May 29, 1996, and released May 30, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street, N.W., Washington, D.C. 20037.

Summary of Report and Order

BellSouth, Southwestern Bell and NARUC challenge the Bureau's previous determination in Responsible Accounting Officer Letter 25 that ATM equipment should be classified as circuit equipment. The Commission agrees that certain types of ATM switching equipment route video signals along transmission paths and thus should be classified as switching equipment. The Commission further found that other ATM equipment used for video applications should be classified based on its function or use as either switching or circuit equipment.

Ordering Clauses

1. Accordingly, pursuant to Sections 4(i), 4(j), and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 220 and Section 1.115 of our rules, 47 C.F.R. § 1.115, it is ordered that the Applications for Review filed by Bell Atlantic Telephone Companies, BellSouth Telecommunications, Inc., GTE Service Corporation, National Telephone Cooperative Association, Southwestern Bell Telephone Company, and US West Communications, Inc. on or before May 3, 1995 are granted to the extent indicated in this Order and to the extent not granted, are dismissed.

It is further ordered that, pursuant to Sections 4(i), 4(j), and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 220, and Sections 1.3 and 32.18 of our rules, 47 C.F.R. §§ 1.3 and 32.18, the Petition for Waiver filed by US West Communications Inc. on September 5, 1995 is dismissed.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–15267 Filed 6–14–96; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 15

[ET Docket No. 95–144; FCC 96–219]

UHF Noise Figure Performance Measurements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission modified its rules to eliminate the requirement that parties who manufacture, import or market television receivers file reports concerning the UHF noise figure performance of recently-introduced models. We found that the requirement for the filing of UHF television noise figure performance measurements had become obsolete and burdensome. By eliminating this requirement we anticipate that the administrative burden on industry as well as on the Commission will be greatly reduced without any deterioration of the television receiver compliance rate.

EFFECTIVE DATE: August 16, 1996.

FOR FURTHER INFORMATION CONTACT: Raymond A. LaForge at (202) 418–2417, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* adopted May 14, 1996, and released June 3, 1996. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of Report and Order

1. The Electronics Industry Association Consumer Electronics Group, now known as the Consumer Electronics Manufacturers Association (''CEMA''), petitioned the Commission to eliminate the requirement that parties who manufacture, import or market television receivers file reports concerning the UHF noise figure performance of television receivers. On September 5, 1995, the Commission issued a *Notice of Proposed Rule Making* (''NPRM''), 60 FR 49421, September 22, 1995, proposing to eliminate the requirement that parties who manufacture, import, or market television receivers file UHF television noise figure measurement reports.

2. CEMA, the only entity to file comments and reply comments supported the Commission's proposal to eliminate the UHF noise figure reporting requirements stating that this initiative furthers the Administration's regulatory reinvention goals by minimizing the reporting burdens on business. It stated that both industry and Commission resources could be redeployed for other business if the UHF noise figure reporting requirement is eliminated.

3. CEMA also noted that the UHF noise figure reporting requirement is inconsistent with the Commission's verification process. It states that under this process manufacturers and importers of television receivers must maintain records of the results of their tests, although they are not required to submit sample products or test reports to the Commission unless specifically requested by the Commission. However, the UHF noise figure reporting requirement obligates manufacturers and importers to compile test measurement data on UHF noise figures for each model during the first year of its introduction and to file these performance measurements with the Commission. CEMA maintained that the requirement for filing this data is inconsistent with the concept of self-approval, which is the heart of the verification process. CEMA argued that the verification process and market forces are therefore sufficient to ensure compliance with the UHF noise figure requirement. Based on the record, we agree with CEMA that the filing of performance measurement data is no longer necessary to ensure compliance with our UHF noise figure requirement. Thus, we are amending our rules to eliminate Section 15.117(g)(3).

4. Accordingly, it is ordered, that Part 15 of the Commission's Rules and Regulations ARE AMENDED as specified below, effective August 16, 1996. The authority for issuance of this *Report and Order* is contained in Sections 4(i), 302, 303 (c), (f), (g), and (r), and 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 302, 303 (c), (f), (g), and (r).

Final Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. § 603, an Initial Regulatory Flexibility Analysis was incorporated in the *NPRM* in ET Docket No. 95–144, FCC 95–389, 60 FR 49421, September 22, 1995. Written comments on the proposal in the *NPRM*, including the Regulatory Flexibility Analysis, were requested. Only one comment and one reply comment were submitted by the petitioner, CEMA.

1. *Need for and Objective of Rules.* Our objectives are to decrease the administrative burden on manufacturers and importers by eliminating the requirement for submission of performance data to demonstrate compliance with the Commission's UHF noise figure requirement. We believe this requirement is no longer necessary to ensure compliance. Therefore, by eliminating the requirement for manufacturers and importers to develop and file this data with the Commission, we expect to greatly reduce the administrative burden on industry as well as on the Commission.

2. *Issues Raised by the Public in Response to the Initial Analysis.* The petitioner was the only party to offer comments to the proposal raised in the *NPRM*, but the Initial Regulatory Flexibility Analysis was not raised as an issue.

3. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with Stated Objectives.* The alternative to amending Part 15 of the Commission's Rules is to continue the requirement that performance data be filed with the Commission to demonstrate compliance with the UHF noise figure requirement. However, this would result in a missed opportunity to remove an unnecessary administrative burden on industry.

List of Subjects in 47 CFR Part 15

Radio, Reporting and recordkeping requirements.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for Part 15 continues to read as follows:

Authority: Secs. 4, 302, 303, 304, 307 and 624A of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

2. Section 15.117 is amended by removing and reserving paragraph (g)(3).

[FR Doc. 96–15210 Filed 6–14–96; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 130

[Docket Nos. HM–214 and PC–1; Amdt. No. 130–2]

RIN 2137–AC31

Oil Spill Prevention and Response Plans

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule implements the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990, and amends requirements that RSPA issued as an interim final rule on June 16, 1993. This rule adopts requirements for packaging, communication, spill response planning and response plan implementation intended to prevent and contain spills of oil during transportation. It requires comprehensive response plans for oil shipments in bulk packagings (i.e., cargo tanks (tank trucks), railroad tank cars, and portable tanks) in a quantity greater than 42,000 gallons and less detailed basic response plans for petroleum oil shipments in bulk packagings of 3,500 gallons or more.

DATES: Effective: June 17, 1996.

Applicability: Incorporation by reference of the publication listed in § 130.5 was authorized by the Director of the Federal Register on June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Allan, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590–0001, Telephone (202) 366–8553 or Nancy Machado, Office of the Chief Counsel, RSPA, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590–0001, Telephone (202) 366–4400.

I. SUPPLEMENTARY INFORMATION:

A. Background

Statutory Authority and Delegations. This final rule implements two separate mandates under the Federal Water Pollution Control Act (FWPCA). Section 311(j)(1)(C) of the FWPCA, 33 U.S.C. 1321(j)(1)(C), directs the President to issue regulations ''establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges.'' Section 311(j)(5), 33 U.S.C. 1321(j)(5), added to the FWPCA by the Oil Pollution Act of 1990 (OPA), Pub. L. 101–380, § 4202, directs the President to issue regulations requiring owners and operators of certain vessels and onshore and offshore oil facilities to develop, submit, update and in some cases obtain approval of oil spill response plans.

On October 22, 1991, the President delegated to the Secretary of Transportation his authority to regulate transportation-related onshore facilities (among others) under §§ 1321(j)(1)(C) and 1321(j)(5). E.O. 12777, 56 FR 54757, §§ 2(b)(2), 2(d)(2). The terms ''transportation-related facility'' and ''non-transportation-related facility'' are defined in a December 18, 1971 Memorandum of Understanding (MOU) between the Department and the U.S. Environmental Protection Agency (EPA) establishing jurisdictional guidelines for implementing § 1321(j)(1)(C). 36 FR 24080; *reprinted at* 40 CFR part 112 App. ''Transportation-related facilities'' include:

> Highway vehicles and railroad cars which are used for the transport of oil in interstate or intrastate commerce and the equipment and appurtenances related thereto . . . . Excluded are highway vehicles and railroad cars and motive power used exclusively within the confines of a nontransportation related facility or terminal facility and which are not intended for use in interstate or intrastate commerce.

36 FR at 24081.

In 1992, the Secretary delegated to the RSPA Administrator his prevention authority under § 1321(j)(1)(C), 57 FR 8581 (Mar. 11, 1992), and his response plan authority under § 1321(j)(5), 57 FR 62483 (Dec. 31, 1992), with respect to motor carriers and railways. Subsequently, the authority to issue response plan requirements for motor carriers and railways transporting oil incident to transfer to or from vessels was redelegated by the Secretary to the Coast Guard Commandant. 58 FR 6193 (Jan. 27, 1993).

Accordingly, the jurisdiction of Part 130 extends to all oil transport by motor carriers and railways, with two exceptions. First, the rule does not apply to transportation exclusively within the confines of a non-transportation-related facility in a motor vehicle or railroad car dedicated to transportation within that facility. These motor vehicles and rail cars are considered non-transportation-related facilities under the 1971 DOT-EPA MOU, and are not within DOT jurisdiction. Response plan requirements applicable to these facilities have been promulgated by EPA under 40 CFR part 112. *See* 59 FR 34070 (July 1, 1994), (pet. for reconsideration filed August 12, 1994). Second, solely as to the § 1321(j)(5) ''comprehensive'' response plan requirements, set forth at § 130.31(b), the rule does not apply to motor vehicles and rail cars engaged in transportation incident to the transfer of oil to or from vessels. The term ''transportation incident to'' is to be read narrowly as encompassing only transportation that (1) is distinct from transportation on public ways and (2) solely facilitates transfer of the oil cargo to or from a vessel. Response plan requirements under 33 U.S.C. 1321(j)(5) for these transportation operations are within the authority of the Coast Guard and were promulgated by the Coast Guard under 33 CFR part 154. *See* 61 FR 7890 (Feb. 29, 1996).

RSPA's delegated authority under §§ 1321(j)(1)(C) and 1321(j)(5) for certain on-shore facilities (i.e., motor vehicles and rolling stock) is solely the authority to promulgate regulations. Spill response plans, when required to be submitted, are submitted to the Federal Highway Administration or the Federal Railroad Administration for motor carriers and railways, respectively. 57 FR 62483. Because RSPA's delegated authority does not provide for the review of response plans for portable tanks, the requirement in § 130.31(b)(6) to submit such plans to the Associate Administrator for Hazardous Materials Safety is removed.

The Coast Guard holds a delegation of authority to inspect motor carrier and rail operations, investigate potential violations of Part 130 (including determinations of whether a carrier's basic response plan conforms to requirements in § 130.31(a)), and enforce the regulations through administrative and civil penalties. *See* 33 U.S.C. 1321(b)(6), 1321(b)(7), 1321(m)(2); and 49 CFR 1.46(l); 57 FR 8581. Also, authority to seek an injunction to compel compliance with any provision of Part 130 has been delegated to the Coast Guard. E.O. 12777, 56 FR 54766, § 6(b); and 49 CFR 1.46(m), 57 FR 8581.

Section 1321(j)(5), as amended by OPA, also mandates the issuance of regulations requiring response plans for on-shore facility discharge of hazardous substances. RSPA will address this mandate in a future rulemaking.

Procedural History. On February 2, 1993, RSPA published an interim final rule (IFR–1) with a request for comments. IFR–1 implemented the mandates of 33 U.S.C. 1321(j)(1)(C) and 1321(j)(5) with respect to motor vehicles and railways by designating oil transported in bulk (i.e., in a packaging of greater than 119 gallons) as a ''hazardous material'' under section 104

of the Hazardous Materials Transportation Act, 49 App. U.S.C. 1803 (now codified at 49 U.S.C. 5103). This designation caused this category of oil transport to be subject to the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180, and met the § 1321(j)(1)(C) mandate by subjecting bulk oil transport to the packaging, transportation and emergency response requirements of the HMR. Additional response plan requirements applicable to oil transported in bulk packagings in a quantity greater than 42,000 gallons were incorporated into the HMR to meet the specific mandate of 33 U.S.C. 1321(j)(5).

Most oils, notably flammable and combustible petroleum oils, already are classed as hazardous materials. The greatest impact of IFR–1 was on those materials defined as oils under 33 U.S.C. 1321 but not already designated as hazardous materials, notably petroleum oils not meeting HMR criteria of flammability or combustibility (e.g., lube and cooling oils) and non-petroleum oils, including edible oils. Regulation of these previously undesignated oils was mandated not for their acutely hazardous properties, but for the environmental harm that their release into the environment could cause. Regulating transportation of environmentally sensitive materials by incorporating them into the HMR framework has its precedents in (1) the statutory designation of ''hazardous substances'' as hazardous materials at 42 U.S.C. 9656(a); and (2) the designation of ''marine pollutants'' as hazardous materials to implement treaty obligations under Annex III of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, 57 FR 52930 (Nov. 5, 1992). These regulatory actions address the environmental hazards of certain materials when transported in bulk by all modes of transportation.

Pursuant to 5 U.S.C. 553(b)(3)(B), RSPA issued an interim final rule (IFR–1) rather than a notice of proposed rulemaking on the basis of a finding that notice and public comment were impracticable and contrary to the public interest. Under § 4202(b)(4)(B) of the OPA, no facility required to prepare a response plan under the statute was permitted to handle, store or transport oil on or after February 18, 1993, unless the facility owner or operator had submitted its plan to the President. RSPA determined that an interim final rule was necessary in advance of the statutory deadline to establish response planning thresholds by regulation and provide guidance to facility owners and operators as to the applicability of the response plan requirements, so that they might avoid the prohibition of § 4202(b)(4)(B).

In the rule, RSPA requested comments and provided for a comment period that closed on April 5, 1993. On the basis of requests submitted to the docket, RSPA, on April 20, 1993, published an interim final rule reopening the comment period until June 3, 1993, and scheduling a public hearing for May 13, 1993. 58 FR 21260. Twenty-two representatives of interested parties presented their views at the public hearing. As of June 3, 1993, approximately 250 comments had been received from interested members of the public, governmental agencies and members of Congress.

After review of public comments, RSPA determined that significant changes in IFR–1 were warranted. Foremost, the comments revealed that a number of State and local jurisdictions use the Federal hazardous materials transportation law (Federal hazmat law) ''hazardous material'' designation as a ''trigger'' for a variety of legal requirements, many of which pertain to health and safety hazards, and do not logically apply to the types of hazards (specifically environmental hazards) posed by oils not already regulated under the HMR. In addition, the comments indicated that the hazardous material designation is a criterion in the transportation industry that determines arrangements concerning insurance, transportation rates, rail interlining and other matters. The comments suggested that designating bulk quantities of oil not already designated as a hazardous material potentially would cause the bulk transport of those oils to be subject to insurance unavailability and increased costs and dislocations not justified by the types of risks posed. Public comment also supported changes to the substance of the prevention regulations, including those concerning basic response plans.

Accordingly, on June 16, 1993, RSPA published a second interim final rule (IFR–2), removing the regulations from the HMR and placing them in Title 49 of the CFR under a newly established part 130. 58 FR 33302. In publishing IFR–2, RSPA sought to continue the timely and uninterrupted implementation of the FWPCA and avoid creating an undue hardship on the regulated community, with the potential to disrupt the sale and delivery of oil.

For high flashpoint petroleum oils, and those non-petroleum oils that were not previously subject to the HMR, IFR–2 also reduced the scope and complexity of the prevention requirements from that stipulated in IFR–1 by eliminating shipping paper, marking, labeling, operational, hazardous materials training and registration requirements. In addition, it raised the threshold for the application of prevention requirements from that established in IFR–1. Whereas under IFR–1 prevention requirements applied to all bulk oil transport, under IFR–2, those requirements only applied to transport of petroleum oil in packagings of 3,500 gallons or greater, and transport of non-petroleum oil in packagings containing a quantity greater than 42,000 gallons.

Spill response plan requirements pursuant to 33 U.S.C. 1321(j)(5) did not change. They continued to apply to transportation of both petroleum and non-petroleum oil in packagings containing a quantity greater than 42,000 gallons.

IFR–2 provided for a third comment period, which ended on July 30, 1993. A public meeting, allowing for dialogue between RSPA and interested members of the public, was held on June 28, 1993. All comments submitted to the docket through IFR–1 and IFR–2 comment periods, the public hearing and the public meeting have been considered in developing this final rule.

Effective Dates. As indicated above, OPA mandates that no facility required to prepare a comprehensive response plan may handle, store or transport oil on or after February 18, 1993, unless the facility owner or operator has submitted its plan to the President. Regulatory requirements in IFR–1 implementing this mandate were contained in § 171.5(c), but now appear in § 130.31(b). The current requirements pertaining to the comprehensive response plan are essentially unchanged from those published in IFR–1. No facility has requested regulatory relief from the deadline to prepare and file a comprehensive spill response plan, and the February 18, 1993 mandatory compliance date appears to have had no effect on routine operations of shippers or carriers. The requirements specified in § 130.31(b) remain effective since February 18, 1993.

RSPA has not granted requests from several commenters for an extension of the mandatory compliance date for oil spill prevention and containment requirements. Those requests ranged from a 60-day extension to give fleet operators ample time to prepare response plans to a one-year extension to give sufficient time for businesses to identify materials subject to Part 130 and comply with the requirements. The essential elements of this final rule are unchanged from the requirements

specified in IFR–2. In addition, the scope of requirements in IFR–2 is significantly less than that prescribed in IFR–1.

In consideration of the above, RSPA is denying all requests for an extension of the effective date.

B. Definitions and Scope of Requirements

The following discussion is provided in response to commenters' requests for clarification of the scope of Part 130:

''Onshore Facility''. In accordance with the definition of ''onshore facility'' at 33 U.S.C. § 1321(a)(10), § 130.2 (Scope) is revised to clearly except transportation of oil by aircraft or vessel. For consistency with the 1971 EPA–DOT MOU, § 130.2 is revised also to except oil transportation occurring exclusively within the confines of non-transportation-related or terminal facilities in vehicles not intended for use in interstate or intrastate commerce.

''Persons''. In this final rule, the definition of ''person'' at § 130.5 is revised for consistency with the FWPCA, 33 U.S.C. 1321(a)(7), 1323 and 1362(5). One commenter asked whether the rule applies to States. This change affirms that these rules apply to agencies of the Federal Government, as well as to those of States and their political subdivisions, and to non-commercial enterprises that offer oil for transportation or transport oil.

''Oil'' Includes Non-Petroleum Oil. Several commenters that ship or transport non-petroleum oil asserted that Congress, in enacting the OPA, did not intend that non-petroleum oil be included within the definition of ''oil'' subject to response planning requirements under the OPA.

The response planning requirements of the OPA were enacted as amendments to the FWPCA at 33 U.S.C. 1321(j). The meaning of the term ''oil'' as it appears in those requirements, accordingly, is governed by the FWPCA definition of oil applicable to § 1321(j):

> [O]il means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

33 U.S.C. 1321(a)(1). This definition was added to the FWPCA in 1972, Pub.L. 92–500, § 2, 86 Stat. 862, and has not been amended. In applying the definition for purposes of oil spill prevention, containment and removal programs under § 1321(j)(1), *see* 40 CFR 112, 33 CFR parts 153–156, EPA and the Coast Guard consistently have interpreted the term to encompass both petroleum and non-petroleum oil. *See* 40 FR 28849 (July 9, 1975) (EPA notice that it interprets ''oil'' under § 1321 to include non-petroleum oil, stating that the interpretation ''is neither a departure from prior agency views, nor a previously undisclosed position''). Non-petroleum oils fall within the plain meaning of the statutory language, and regulation of non-petroleum oils under 33 U.S.C. 1321 is in accord with the statutory purpose of affording broad protection to the navigable waters, shorelines and natural resources under Federal control.

''Oil'' Does Not Include Hazardous Substances. The definition of ''oil'' in § 130.5 is amended so as to be identical to the definition at § 1321(a)(1) of the FWPCA. A note is added to make clear, consistent with the FWPCA, that the requirements in Part 130 do not apply to materials that are hazardous substances as defined at 40 CFR part 116. The list of hazardous substances appears at 40 CFR part 116, Appendix.

''Petroleum Oil.'' Commenters suggested that the phrase ''derivatives thereof'' in the definition of ''petroleum oil'' is ambiguous and could be too broadly interpreted to include materials (such as ethylene glycol) that do not possess the properties of oil. RSPA agrees and has changed the definition of ''petroleum oil'' accordingly. The term ''fractions'' means oils produced by distillation or their refined products.

Requirements Limited to Transportation of ''Oil'' as Cargoes. Comments submitted by the U.S. Department of the Interior (DOI) contained a recommendation that the scope of these rules explicitly include oil contained in fuel tanks of diesel locomotives. The DOI cited two spills that resulted from train derailments and posed a potential threat of significant impact to natural resources. RSPA has not adopted this recommendation. RSPA notes that every railroad transporting oil in a tank car is required to prepare and maintain at least a basic spill response plan that may be employed to adequately address potential threats posed by oil contained in fuel tanks. Also, the limited scope of rules specified in Part 130 does not negate a railroad's responsibility for cleanup and liability, under the FWPCA, of oil discharged from a fuel tank.

Applicability to Oil in Liquid Form. In response to the numerous comments asking for clarification as to the applicability of these regulations to oil in its various forms, RSPA is amending § 130.2 (Scope) to provide that this rule applies to oil in the liquid form only. This provision is adopted so as to apply requirements for prevention, containment, and response planning in Part 130 to that form of oil which poses the greatest threat to the marine environment.

To assist shippers in determining if a material is a liquid, RSPA is adopting in this final rule a relatively simple test developed by the American Society for Testing and Materials in its standard ASTM D 4359–84, ''Standard Test Method for Determining Whether a Material is a Liquid or a Solid.'' Under this standard, many viscous materials, like number six diesel fuel and some grades of asphalt, are included in the definition of liquid. Conversely, on the basis of this standard, solidified tars and other oils having a relatively high melting point may not be subject to Part 130, nor will oil-containing materials like soybean meal and cotton seeds.

Mixtures and Solutions Containing Oil. A number of comments suggested that the rule exclude materials containing only a small proportion of oil in mixture or solution. RSPA's proposal at the June 28, 1993 public meeting to exclude mixtures and solutions in which oil is in a concentration by weight of less than 10 percent drew broad support from many persons commenting on IFR–2. This exclusion considers that the volume of oil contained in many products is at levels which pose no serious harm to the marine environment within the meaning of 33 U.S.C. 1321(j). This exception considers numerous comments to the docket, under IFR–1, that support adoption of an exception for oil in mixtures and solution.

RSPA's determination to apply a mixtures rule that uses a threshold value of 10 percent oil parallels its regulation under Federal hazmat law of hazardous substances that pose a threat to the marine environment. Since 1980, RSPA has provided an exception from application of the HMR for mixtures and solutions containing, in a concentration by weight of less than 10 percent, hazardous substances with an EPA-designated ''reportable quantity'' value of 5,000 pounds. This determination is specific to prevention, containment, and response planning requirements under Part 130. As noted above concerning application of the requirements in Part 130 to oil contained in integral fuel tanks of a locomotive, this action does not provide carriers with a general exception from responsibility for cleanup and liability under the FWPCA for the discharge of dilute mixtures containing oil. Therefore, we recommend that all carriers incorporate within their operations plans effective measures to prevent oil spills and to mitigate the effects of discharges of oil which do occur.

Container Residue. One commenter requested an exception for bulk packagings containing oil residue on the basis that the amount remaining in the packaging may be less than an unregulated quantity of oil in a non-bulk packaging. RSPA has not adopted that suggestion. The empty return of most bulk packagings is accomplished by the same carrier that transported the filled container. Thus, the relief available to the carrier is negligible, particularly when it would necessitate a requirement to determine and document the amount of residue. In addition, RSPA believes that an exception is not warranted because it is important that all closures remain properly secured, as required by § 130.21, even after unloading, as long as oil residue remains present.

C. Prevention and Containment Requirements

General. The bulk of oils transported by motor vehicle and railway, including petroleum oils like gasoline and fuel oil and some non-petroleum oils like turpentine, already are classed as hazardous materials under Federal hazmat law because of their threats to health and safety. RSPA's implementation of the § 1321(j)(1)(C) mandate to issue regulations to prevent and contain oil discharges in motor vehicle and railway transport proceeds from the fact that these oils, which also are the oils of greatest environmental concern, are subject to the comprehensive regulatory framework of the HMR. Transportation of these oils must meet detailed requirements in the HMR pertaining to specification packaging, hazard communication (marking, placarding, 24-hour emergency response telephone numbers, shipping papers, etc.), loading and unloading operations, and routing. *See generally* 49 CFR parts 171–180. In addition, each employee of a person offering for transportation or transporting an oil that is a hazardous material must receive training specific to the hazardous materials-related functions he or she performs. 49 CFR 172.700. Basic spill response planning and response plan implementation under § 1321(j)(1)(C) (in addition to comprehensive planning under § 1321(j)(5)) appropriately supplement these requirements. The record of safe transportation of these oils supports the conclusion that no additional spill prevention or containment requirements are necessary.

The volume of petroleum oil shipped by highway and rail not subject to the HMR is small by comparison with the total volume. Most of this oil is lubricating oil and includes an increasing amount of used oil intended for recycling. As noted by commenters, petroleum oil has toxic, solvent and physical properties that pose a threat to the marine environment which RSPA seeks to minimize through the prevention and containment requirements specified in Part 130. These regulations apply to petroleum oils offered for transportation or transported in bulk packagings having a capacity of 3,500 gallons or more. RSPA believes these requirements provide an adequate degree of protection for the marine environment at a cost commensurate with the risk posed by this class of oils.

The prevention requirements apply to non-petroleum oils, both because § 1321(j)(1)(C) mandates reasonable measures to prevent and contain discharges of these oils, and because their physical properties can harm the environment. On the basis of its review of reported incidents involving spills of non-petroleum oils on rail lines and public highways, RSPA determined that the frequency and volume of such discharges, generally does not support application of the rules and regulations in Part 130 to the same extent as required for petroleum oils. Thus, while the same prevention and containment requirements specified in Part 130 for petroleum oils pertain to non-petroleum oils, RSPA applies those rules at a higher threshold value (i.e., quantities greater than 42,000 gallons in a single packaging). These prevention and containment requirements complement the comprehensive response plan requirement triggered at the same quantity threshold.

Comments submitted to the docket suggest that some non-petroleum oil such as turpentine and tung oil possesses toxicity, solvent and physical properties warranting that its transportation be subject to spill prevention and containment requirements at the lower, 3,500-gallon threshold applicable to petroleum oil. While it may be appropriate to make regulatory distinctions among petroleum or non-petroleum oils to account for the different risks that particular oils present to the marine environment, the docket does not contain sufficient information on the properties of specific oils for RSPA to make substantive regulatory distinctions other than between petroleum and non-petroleum oil.

The rule adopts general definitions that establish three categories of non-petroleum oil: ''animal fat,'' ''vegetable oil'' and ''other non-petroleum oil.'' The last group includes, for example, synthetic oils, essential oils such as turpentine, and oils otherwise meeting the definition of an animal fat or a vegetable oil but specifically excluded from that category through rulemaking. This subcategorization of non-petroleum oils has no practical significance at this time, as all non-petroleum oils are subject to the same prevention and response planning requirements. It may provide an initial framework, however, for future RSPA rulemaking to refine the prevention and response planning regulations in Part 130.

Packaging. A number of commenters requested clarification regarding the packaging requirement for oil in bulk transport vehicles. Specifically, they questioned whether RSPA interprets § 130.21 to require DOT specification cargo tanks, such as the MC–306 commonly used for gasoline and other volatile liquids. Section 130.21 does not require specification containers. For those oils not subject to the HMR, a non-specification cargo tank that conforms to the basic requirements of § 130.21 is acceptable.

Basic Response Planning as an Element of Prevention Standards. Part 130 contains basic response plan requirements applicable to transportation of petroleum oil in a bulk packaging with a capacity of 3,500 gallons or more. The 3,500-gallon capacity threshold is the same threshold used to subject shippers and carriers to the registration requirement under Federal hazmat law, 49 U.S.C. 5108. Also, the Federal Highway Administration's financial responsibility requirement, 49 CFR part 387, applies to motor carriers that transport hazardous substances in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons.

In IFR–1, RSPA prescribed requirements for preparation of basic response plans as part of prevention and containment requirements applicable to shipments of oil in bulk packagings having a capacity greater than 119 gallons. Comments to the docket suggested that the 119-gallon threshold was unnecessarily low since, under conditions normally incident to transportation, a discharge of oil in that volume will not threaten the marine environment to an extent warranting mandatory spill response plan preparation.

On the basis of its review of those comments, RSPA revised the threshold for applying prevention and containment requirements, including the requirement to prepare a basic response plan, from all bulk packagings to those having a capacity of 3,500

gallons or more. The 3,500-gallon threshold was selected, in part, because of its use in related programs for emergency response and carrier liability. Specifically, registration requirements under Federal hazardous materials transportation law, 49 U.S.C. 5108, and Federal Highway Administration financial responsibility requirements for the transportation of hazardous substances, 49 CFR part 387, are keyed to the 3,500-gallon threshold.

Response Plan Implementation. With respect to the prevention, containment and cleanup of oil discharges, the scope of 33 U.S.C. 1321 extends to discharges into the navigable waters of the United States, the shorelines of those waters, and natural resources belonging to, appertaining to, or under the exclusive management authority of the United States. 33 U.S.C. 1321(c)(1)(A); *see also* 33 U.S.C. 1321(b)(3) (prohibiting discharges to navigable waters, shorelines and natural resources). ''Navigable waters'' under this rule has the meaning given to it at 40 CFR 110.1. One commenter stated that response planning requirements should apply only to transportation where a discharge could reach one of these three areas. Because virtually all transportation of oil poses a potential risk to these areas, the response planning requirements of § 130.31 apply to the full range of transportation indicated in § 130.2. The § 130.33 requirement that the transporter implement its response plan to contain and remove a discharge, however, applies only when the discharge falls within the jurisdiction of § 1321, as described above and set forth at § 130.33.

RSPA recognizes that when a discharge has occurred, it may be difficult to determine immediately and with certainty that the discharge has not reached, or does not substantially threaten to reach, navigable waters, shorelines, or Federally controlled natural resources. Because the determination, for practical purposes, will be made by the Coast Guard (in the coastal zone) or EPA (in the inland zone), the operator is advised to begin to implement its response plan wherever a discharge occurs. In addition, Part 130 does not affect the applicability of other Federal, State, local or Indian tribe requirements that may impose response obligations on the transporter. Accordingly, while § 130.33 is binding only with respect to discharges that reach or threaten to reach navigable waters, shorelines or Federally controlled natural resources, RSPA strongly encourages transporters to take all appropriate response actions regardless of the location of a spill.

With respect to the comprehensive response plan at § 130.31(b), applicable to the transportation of more than 42,000 gallons of oil in a single packaging, § 1321(j)(5)(C)(i) mandates that a response plan shall be consistent with the National Contingency Plan (NCP). The requirement for a basic response plan for transportation of petroleum oil in bulk packagings of 3,500 gallons or greater (but in an amount not exceeding 42,000 gallons), is issued as a prevention and containment rule pursuant to § 1321(j)(1)(C). Nevertheless, 33 U.S.C. 1321(c)(3)(B) states that any action taken by a transporter in response to a discharge that reaches or threatens to reach navigable waters, shorelines or Federally controlled natural resources must be consistent with the NCP, or as directed by the President. (The President's authority is delegated, through the EPA Administrator and the Secretary of Transportation, to the Federal on-scene coordinator. E.O. 12777, 56 FR 54757, § 3.) Section 130.33 emphasizes that the transporter's obligation to implement its response plan does not excuse it from compliance with 33 U.S.C. 1321(c)(3)(B) or any other legal response obligations.

D. Response Planning Requirements Mandated by the OPA (33 U.S.C. 1321(j)(5))

Section 130.31(b) contains requirements for comprehensive response plans for oil transportation in bulk packagings in a quantity greater than 42,000 gallons (1,000 barrels) per packaging. Bulk packagings include cargo tanks (tank trucks), railroad tank cars and portable tanks. This section fulfills the FWPCA mandate for regulations requiring response plans to be prepared by an owner or operator of an onshore facility that, ''because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into [or] on the navigable waters or adjoining shorelines.'' 33 U.S.C. 1321(j)(5). The comprehensive response plan is more extensive than the basic response plan under § 1321(j)(l)(C); the comprehensive plan must meet the content and submission requirements of § 1321(j)(5)(C).

RSPA's identification of 42,000 gallons as the threshold for so-called ''substantial harm'' facilities received many comments. Those comments suggested alternate thresholds ranging from 10,000 to 1,000,000 gallons, as well as a finding that no motor vehicle or railway facility meets the ''substantial harm'' standard. Ten thousand gallons defines a major inland zone spill under the NCP. 40 CFR 300.5 (''Size classes of discharges''). The EPA selected one million gallons as the threshold for fixed ''substantial harm'' facilities under certain circumstances. 33 CFR 112.20(f)(1)(ii) (published at 59 FR 34099) (July 1, 1994).

None of the alternative thresholds suggested by commenters was accompanied by objective data that would support the threshold any commenter proposed. At the low end of the range, a standard of 250-barrel (10,500 gallon) vessel oil cargo capacity is applied by the U.S. Coast Guard for transfers of oil between vessels and mobile or fixed transfer facilities. The Coast Guard designated mobile transfer facilities as ''substantial harm'' facilities. It designated fixed facilities as facilities that could reasonably be expected to cause ''significant and substantial harm'' to the environment in the event of a discharge. 33 U.S.C. 1321(j)(5)(D). The response plan for a facility in this category, under § 1321(j)(5)(D), must be submitted to the Coast Guard for review and approval. A lower threshold is justified for these facilities by the fact that the probability of an oil spill to the marine environment is greater during oil transfer between land and a vessel than during transportation over railways and highways.

Conversely, the 1,000,000-gallon threshold adopted by EPA is contingent on several factors, including restrictive provisions that the facility may not transfer oil over water to or from vessels and that the facility's proximity to a public drinking water intake must be sufficiently distant to assure that the intake would not be shut down in the event of a discharge. Further, the EPA threshold refers to the capacity not of a single fixed storage tank, but of the entire facility, including barrels and drums stored at the facility. In summary, this example also is not analogous to hazards routinely encountered during transportation by railway and highway.

During the June 28, 1993 public meeting, the ''substantial harm'' threshold was discussed at length, but participants did not agree on what volume of oil reasonably could cause substantial harm to the marine environment. Also, the 42,000-gallon threshold is supported by a number of comments to the docket citing its use by the EPA in related sections of the Code of Federal Regulations. Consequently, RSPA believes its determination to use a threshold value of 42,000 gallons in a single packaging is appropriate and reasonable.

Regarding use of 42,000 gallons as the threshold for the comprehensive response plan requirement, the Association of American Railroads suggested that the rule discriminates against the railroad industry, as only it, and not the trucking industry, has the potential to transport that quantity of oil in a single packaging. The rule does not discriminate against the railroad industry. Rather, it operates differently as between the two industries due to the fact that the railroad industry is capable of transporting a larger quantity of oil in a single bulk packaging. The risk to the marine environment posed by oil in transport is proportional to the quantity of oil that could be discharged in an accident, and the rule, reasonably, regulates on that basis. Where other factors such as proximity to navigable waters gain in importance, both motor vehicle and railway transport are subject to comprehensive planning requirements. *See* 58 FR 7330 (Coast Guard interim final rule). RSPA notes again that, on the basis of available information, no rail carrier is transporting oil in a quantity greater than 42,000 gallons in tank cars.

E. Contents of Comprehensive and Basic Response Plans

Several commenters requested guidance for preparing spill response plans under § 130.31(a) and (b). The purposes of the response plan are to ensure: (1) that personnel are trained and available and equipment is in place to respond to an oil spill; and (2) that procedures are established before a spill occurs so that required notifications and appropriate response actions will follow expeditiously when there is a spill. The response plan, whether the basic plan under § 130.31(a) or the comprehensive plan under § 130.31(b), should be a complete and practical document that serves these purposes.

Neither the basic nor the comprehensive plan is required to address response on a vehicle- or location-specific basis. A nationwide, regional or other generic plan is acceptable, provided that it covers the range of spill scenarios that the owner or operator foreseeably could encounter. Thus, scenarios ranging from a minor discharge to a ''maximum potential discharge,'' § 130.31(a)(2), or a ''worst case discharge,'' § 130.31(b)(4), should be addressed, as well as the range of topographical and climatological conditions the owner or operator may face. The plan also should describe the response when the discharge results from, or is accompanied by, a complicating condition, such as explosion or fire.

The comprehensive plan should, at a minimum, specify and discuss the following:

(1) The range of response scenarios that foreseeably could occur.

(2) The qualified individual, the alternate qualified individual, and all other personnel with a role in spill response.

(3) The training, including drills, required for each of these persons.

(4) The equipment necessary for response to the maximum extent practicable in each of the identified scenarios.

(5) The means by which the availability of personnel and equipment will be ensured to respond to a spill to the maximum extent practicable.

(6) Governmental officials and others to be notified in the event of a spill, and the notification procedure to be followed.

(7) The means for communicating among responsible personnel and between personnel and officials during a response.

(8) The procedures to be followed during a response.

The basic response plan should address the same topics, with the exceptions that training and drills are not required for identified personnel and the owner or operator need not demonstrate by ''contract or other means'' the assurance of personnel and equipment availability. In this final rule, RSPA reiterates its intent that a basic response plan must identify private sector resources (personnel and equipment) that the carrier may immediately call upon to respond to a discharge of oil. This regulatory intent is clarified by amending § 130.31(a)(3) to require identification of ''private personnel and equipment available to respond to a discharge.''

The Independent Lubricant Manufacturers Association asked RSPA to provide model plans. RSPA does not believe this is necessary, but is allowing owners and operators the flexibility to develop plans that best address their circumstances. Following issuance of IFR–1, RSPA undertook an effort to develop a model plan, but subsequently learned that two industry associations were developing models that would be available to a large segment of the affected industries. Consequently, RSPA decided not to duplicate the private sector effort, and the project to develop a model plan was terminated. Owners and operators may wish to refer to the model plans developed by industry associations or they may refer to the model plan included by EPA at Appendix F of its July 1, 1994 final rule. 59 FR 34122.

Many owners and operators required to prepare and maintain a response plan under this rule also will be subject to EPA response plan requirements for fixed facilities, or Coast Guard response plan requirements for marine-related facilities. As RSPA stated in the preamble to the February 2, 1993 interim final rule, 58 FR 6866, it is intended that owners and operators subject to response planning requirements of both RSPA and another Federal agency be able to use response planning activities to fulfill both sets of requirements, with appropriate modification or supplementation as differences in spill scenarios dictate. Accordingly, RSPA will seek to maintain consistency with other agencies in its interpretation of terms and concepts contained in 33 U.S.C. 1321(j)(5). In addition, RSPA is including, in § 130.5, the following definitions:

Qualified individual is an individual familiar with the response plan, trained in his or her responsibilities in implementing the plan, and authorized, on behalf of the owner or operator, to initiate all response activities identified in the plan, to enter into response-related contracts and obligate funds for such contracts, and to act as a liaison with the on-scene coordinator and other responsible officials. The qualified individual must be available at all times the owner or operator is engaged in transportation subject to Part 130 (alone or in conjunction with an equally qualified alternate), must be fluent in English, and must have in his or her possession documentation of the required authority.

By contract or other means means (1) a written contract with a response contractor identifying and ensuring the availability of the necessary personnel or equipment within the shortest practicable time; (2) a written certification by the owner or operator that the necessary personnel or equipment can and will be made available by the owner or operator within the shortest practicable time; or (3) documentation of membership in an oil spill response organization that ensures the owner's or operator's access to the necessary personnel or equipment within the shortest practicable time.

Maximum extent practicable means the limits of available technology and the practical and technical limits on an owner or operator conducting response activities under a particular set of circumstances.

Worst-case discharge for an onshore facility is defined at 33 U.S.C. 1321(a)(24) as ''the largest foreseeable discharge in adverse weather

conditions.'' The largest foreseeable discharge from a motor vehicle or rail car is the capacity of the cargo container. The term ''maximum potential discharge,'' used in § 130.31(a), is synonymous with ''worst-case discharge.''

F. Federal Preemption

RSPA received two comments concerning the effect that the RSPA rule will have on the existing and future regulation of oil transportation by States and localities. Part 130 is issued under authority of 33 U.S.C. 1321(j)(1) (C) and 1321(j)(5). For this reason, it is subject to 33 U.S.C. 1321(o)(2), which states:

> Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State, or with respect to any removal activities related to such discharge.

This provision indicates that Federal regulation under 33 U.S.C. 1321 does not preempt, but rather accommodates, regulation by States and political subdivisions concerning the same subject matter. Thus, the establishment of oil spill prevention and response plan requirements in this rule will affect neither existing State and local regulation in the area, nor State and local authority to regulate in the future. RSPA has not received any comments from State or local governments on this issue.

The American Trucking Associations (ATA) requested that RSPA return to the approach abandoned in IFR–2 of designating oil transported in the relevant bulk quantity as a hazardous material, and issuing the final rule under joint authority of the FWPCA and Federal hazmat law. The ATA seeks in this way to give the rule the preemptive effect over non-Federal regulation that Federal hazmat law provides. Unlike the preservation of State and local authority under 33 U.S.C. 1321, Federal hazmat law provides for extensive preemption of non-Federal requirements. 49 U.S.C. 5125.

Promulgation of oil spill prevention and response planning regulations under both the FWPCA and Federal hazmat law would not necessarily result in the preemptive effect the commenter desires. Section 5125 provides for preemption of non-Federal requirements only to the extent those requirements are not otherwise authorized by Federal law. As cited above, 33 U.S.C. 1321(o)(2) explicitly preserves the authority of non-Federal jurisdictions to regulate oil spill prevention and response. Whether this constitutes Federal authority sufficient to insulate non-Federal requirements regulating in this area from Federal hazmat law preemption is a question that has not been decided and, as noted below, is not decided here.

More importantly, Federal oil transportation regulations should carry the preemptive force of Federal hazmat law only when they are issued to implement the mandate of that law.

As explained above, RSPA has determined not to exercise its authority under Federal hazmat law to regulate oil that does not meet the definition of any hazard-specific class under the HMR, and is not an elevated temperature material, a hazardous substance or a hazardous waste. Accordingly, Part 130 is issued solely under FWPCA authority, and the preemption standards of 49 U.S.C. 5125 do not apply.

The Chemical Waste Transportation Institute asks RSPA to clarify the extent to which 33 U.S.C. 1321(o)(2) authorizes non-Federal regulation of hazardous materials different from or additional to the HMR with respect to emergency response training, equipping vehicles with personal protective equipment, incident reporting, emergency drills, insurance, or response plan maintenance. Under 49 U.S.C. 5125, a non-Federal requirement that otherwise would be preempted is not preempted if it is otherwise authorized by Federal law. The commenter requests a finding that § 1321(o)(2) does not ''otherwise authorize'' non-Federal regulation of oils that are designated hazardous materials.

The commenter, in short, asks whether 33 U.S.C. 1321(o)(2) constitutes, under 49 U.S.C. 5125, an ''authorization'' of non-Federal regulation that otherwise would be preempted by the HMR. This question will become pertinent when a non-Federal requirement concerning oil spill prevention or response is challenged as contrary to the HMR. The rule issued today neither limits nor expands non-Federal authority to regulate oil transportation, and has no bearing on how § 1321(o)(2) is interpreted. The question the commenter poses, accordingly, is outside the scope of this rulemaking, and it is not appropriate for RSPA to decide it here.

Section 5125 provides for a formal administrative determination of preemption, on application of a party directly affected by a specific requirement of a State, State subdivision or Indian tribe. When an application is filed with RSPA concerning a specific non-Federal requirement regulating the transportation of oil designated as a hazardous material, and the jurisdiction maintaining that requirement claims that it is authorized by 33 U.S.C. 1321(o)(2), RSPA will examine the relationship between § 1321(o)(2) and 49 U.S.C. 5125.

G. Other Substantive Issues Addressed by Commenters

Linking FWPCA and Federal Hazmat Authority for Oils That Are Hazardous Materials. One commenter, a State agency, suggested that as to oils that already are designated hazardous materials, Part 130 be incorporated by reference into the HMR. According to the commenter, this would allow the State to enforce Part 130, with respect to oils designated as hazardous materials, directly through its existing regulatory structure. In addition, it would place the responsibility for enforcing Part 130, with respect to those oils, with the State agency responsible for enforcing the HMR as to those oils.

RSPA is not adopting this suggestion. Significant confusion could result from issuing Part 130 under the FWPCA as to certain oils and under both the FWPCA and Federal hazmat law as to certain other oils. In addition, the Federal authority to enforce oil transportation regulations under Federal hazmat law and those under the FWPCA lies with different agencies— in the former case, the Federal Railroad Administration, the Federal Highway Administration and RSPA and, in the latter, the Coast Guard and EPA. Incorporation by reference of some portion of Part 130 into the HMR would result in duplicative and potentially inconsistent enforcement, to the detriment of the regulated community. Under 33 U.S.C. 1321(o)(2), a State may adopt Part 130 verbatim, or may enact other laws with respect to oil spill prevention and response. The rule does not constrain the State's ability to regulate in this area or to determine what State body is to implement the regulations that are enacted.

Documentation to Accompany Shipments of Oil. Section 130.11(b) prohibits transporting oil subject to this part unless a readily available document indicating that the shipment contains oil is in the possession of the transport vehicle operator during transportation. This section drew comments from the Association of American Railroads and several railroad companies, contending that the requirement is burdensome and serves no purpose. They state that the predominant practice in the railroad industry is to generate commodity descriptions from a computerized Standard Transportation Commodity Code, but that system does not easily accommodate unique shipping paper information, especially for shipments

handled by several carriers. These commenters suggest that their response to any incident involving oil will be just as timely and appropriate absent the specific identification of each commodity that meets the definition of oil.

RSPA is retaining this requirement. It does not agree that the requirement is unnecessarily burdensome. Train crews currently carry a manifest that specifically identifies each car and its contents. Frequently the manifest is the only source of information available to first responders to an incident, and RSPA believes it is important that responders be able to immediately identify shipments of oil that potentially threaten the environment. RSPA emphasizes that this requirement can be met by an appropriate notation on currently used transportation documents. Thus, there is no need to create a new document.

The Association of American Railroads requests that the word ''knowingly'' be added between the words ''may'' and ''transport'' in § 130.11(b), so that a carrier would not be held responsible for identifying oil shipments unless the shipper has informed the carrier that the cargo presented for transport includes oil. The commenter states that the carrier depends on the shipper for commodity identification.

RSPA is not adopting this request. Sections 1321(b) (6) and (7) of 33 U.S.C. set forth the circumstances under which administrative and civil penalties may be levied for violation of Part 130. These sections do not provide that a carrier is subject to penalties for violating Part 130 only when it has knowledge of facts that bring it within the compass of the regulations. Rather, the statute imposes a strict liability standard, placing the burden on the carrier affirmatively to determine whether it is carrying cargo that subjects it to requirements under Part 130. Indeed, the change the commenter proposes, by excusing compliance with the regulation absent actual carrier knowledge that it was transporting oil, would encourage the carrier to remain ignorant of its cargo. This would not further the statutory goal of improving oil spill prevention and containment. Under § 130.11, the shipper must provide the carrier a document indicating that the shipment includes oil; at the same time, the carrier independently must take whatever steps it finds reasonable to satisfy itself that it either is or is not accepting oil for shipment.

In response to a question from a commenter, RSPA acknowledges that a shipper may use a Material Safety Data Sheet (MSDS) to notify a carrier that a shipment contains oil, and a carrier may use an MSDS to accompany a shipment during transportation. This acknowledgement presumes that the MSDS accurately and clearly identifies the material as an oil.

Several commenters requested clarification as to placing the ''oil'' notation on a hazardous materials shipping paper. If the proper shipping name or technical name of a hazardous material that meets the definition of ''oil'' does not reflect that it is an oil, then the word ''oil'' may be separately added or appear with the product name, trade name or other information associated with that material on the shipping paper in addition to required descriptions, consistent with 49 CFR 172.201(a)(4).

Finally, RSPA is adding a list of common shipping descriptions that it believes effectively communicate that the materials are oil, thereby precluding the need to specifically add the word ''oil'' to shipping documents. The list of common shipping names is added at § 130.11.

Requirements Based on Packaging Capacity vs. *Those Based on Volume.* Several comments suggested that the rule is inconsistent in applying basic response planning requirements and prevention and containment requirements to shipments of petroleum oil in packagings with a *capacity* of 3,500 gallons or larger and applying comprehensive response plan requirements, and prevention and containment requirements for non-petroleum oils, to shipments in a *volume* of more than 42,000 gallons in a single packaging.

Applying prevention and containment requirements for petroleum oil on the basis of the container capacity is warranted by the practical problems that would result from applying them on the basis of actual volume of oil present. Vehicles transporting petroleum oil in the volume range of 3,500 gallons typically make more than one stop in delivering the full cargo they are carrying. Determining the actual volume of oil present at any given time would require accurate flow metering devices capable of accounting for temperature variations. Further, Federal, State and local authorities conducting on-the-road enforcement inspections would be unable to determine whether the regulations applied to a given shipment absent a means to measure the volume of the cargo. RSPA expects that most petroleum oil cargo tanks and tank trucks with a capacity of 3,500 gallons or larger at some time will be used to transport 3,500 gallons or more of petroleum oil, so that the owner or operator will be required to prepare a basic response plan in any event. The burden of these vehicles' complying with packaging and communication requirements in those cases when they are carrying less than 3,500 gallons is small enough to justify the administratively simpler approach of basing the applicability of prevention and containment requirements on vehicle cargo capacity.

Conversely, oil shipments in single packagings of more than 42,000 gallons will be few and limited to railroad tank cars. Any shipment of this volume that does occur likely would be to a single consignee, so that in-transit volume measurements would not be necessary. Further, comprehensive response plan requirements under 33 U.S.C. 1321(j)(5) are addressed to oil transport that meets a specified (''substantial harm'') environmental risk threshold. RSPA's conclusion that oil volume is the relevant criterion in determining environmental risk makes it reasonable that the applicability of comprehensive response plan requirements depend on the volume of oil being transported in the tank car.

H. Interagency Coordination

In addition to RSPA's rulemakings in this docket (PC–1) and Docket PS–130, Response Plans for Onshore Oil Pipelines, three other Federal agencies recently have completed or presently are engaged in rulemaking to implement the spill response planning mandate of 33 U.S.C. 1321(j)(5) within their areas of jurisdiction. These Federal agencies are the U.S. Coast Guard (vessels and marine transportation-related facilities); the EPA (non-transportation-related onshore facilities); and the Department of the Interior's Minerals Management Service (DOI/MMS) (offshore oil production facilities). RSPA believes that the five sets of regulations should be consistent to the extent practicable, recognizing that the risk of and damage from spills from different types of facilities and vessels require that distinctions be made.

The importance of consistency among the regulations of the different agencies implementing § 1321(j) generally has been expressed in a September 10, 1993 letter to RSPA's Acting Administrator from the National Response Team (NRT). The NRT is responsible under the NCP for national coordination of oil spill response planning. 40 CFR 300.110. RSPA is the DOT representative on the NRT, and RSPA's Associate Administrator for Hazardous Materials Safety chaired the NRT Prevention Committee.

RSPA has met to discuss these issues with representatives of the USCG, EPA and MMS. The meetings have included participation by representatives of the trustees for natural resources managed or protected by the Departments of the Interior, Agriculture and Commerce. These meetings were informal sessions in which staff members of the interested agencies came together to discuss differences in regulations issued under the authority of 33 U.S.C. § 1321(j).

RSPA will continue to coordinate with the Coast Guard, EPA and MMS, as well as other member agencies of the NRT. In the future, RSPA may undertake rulemaking to consider modifications of the rule as a result of this coordination. In addition, RSPA may evaluate the adequacy of these rules and regulations in light of Area Contingency Plans (ACP's) prepared by representatives of Federal, State and local agencies. Under 33 U.S.C. 1321(j)(4)(C)(ii), each ACP shall describe the area covered by the plan, including the areas of specific economic or environmental importance that might be damaged by a discharge. Should it be determined that any of these specific environments may be inadequately protected against the threats posed by the transportation of oil in a motor vehicle or rail car, RSPA may reopen this docket to consider additional requirements for response planning, or spill prevention and containment, to address those threats. For example, RSPA could, through rulemaking, establish criteria and procedures for case-by-case designation of facilities subject to response planning requirements.

II. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. The rule is considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034) because of public and congressional interest. A regulatory evaluation is available for review in the docket.

B. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. While this rule applies to numerous shippers and carriers of oil in bulk, some of whom are small entities, the spill prevention and response planning requirements contained herein will not result in a significantly adverse economic impact.

C. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism'') and does not have sufficient federalism impacts to warrant the preparation of a federalism statement.

D. Paperwork Reduction Act

Information collection requirements applicable to written oil spill response plans are unchanged in substance and amount of burden from those previously approved under Office of Management and Budget (OMB) control number 2137–0591 (extended to: June 30, 1996). RSPA will request reinstatement and revision of this approval from OMB and will display, through publication in the Federal Register, the valid control number upon approval by OMB. Public comment on this request was invited through publication of a Federal Register notice on March 5, 1996 (61 FR 8706). Under the Paperwork Reduction Act of 1995, no person is required to respond to a requirement for collection of information unless the requirement displays a valid OMB control number.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR part 130

Incorporation by reference, Oil, Response plans, Reporting and recordkeeping requirements, Transportation.

In consideration of the foregoing, 49 CFR part 130 is revised to read as follows:

PART 130—OIL SPILL PREVENTION AND RESPONSE PLANS

Sec.

Authority: 33 U.S.C. 1321.

§ 130.1 Purpose.

This part prescribes prevention, containment and response planning requirements of the Department of Transportation applicable to transportation of oil by motor vehicles and rolling stock.

§ 130.2 Scope.

(a) The requirements of this part apply to—

(1) Any liquid petroleum oil in a packaging having a capacity of 3,500 gallons or more; and

(2) Any liquid petroleum or non-petroleum oil in a quantity greater than 42,000 gallons per packaging.

(b) The requirements of this part have no effect on—

(1) The applicability of the Hazardous Materials Regulations set forth in Subchapter C of this chapter; and

(2) The discharge notification requirements of the United States Coast Guard (33 CFR part 153) and EPA (40 CFR part 110).

(c) The requirements of this part do not apply to—

(1) Any mixture or solution in which oil is in a concentration by weight of less than 10 percent.

(2) Transportation of oil by aircraft or vessel.

(3) Any petroleum oil carried in a fuel tank for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached.

(4) Oil transport exclusively within the confines of a non-transportation-related or terminal facility in a vehicle not intended for use in interstate or intrastate commerce (see 40 CFR part 112, appendix A).

(d) The requirements in § 130.31(b) of this part do not apply to mobile marine transportation-related facilities (see 33 CFR part 154).

§ 130.3 General requirements.

No person may offer or accept for transportation or transport oil subject to this part unless that person—

(a) Complies with this part; and

(b) Has been instructed on the applicable requirements of this part.

§ 130.5 Definitions.

In this subchapter: *Animal fat* means a non-petroleum oil, fat, or grease derived from animals, not specifically identified elsewhere in this part.

Contract or other means is:

(1) A written contract with a response contractor identifying and ensuring the availability of the necessary personnel or equipment within the shortest practicable time;

(2) A written certification by the owner or operator that the necessary

personnel or equipment can and will be made available by the owner or operator within the shortest practicable time; or

(3) Documentation of membership in an oil spill response organization that ensures the owner's or operator's access to the necessary personnel or equipment within the shortest practicable time.

EPA means the U.S. Environmental Protection Agency.

Liquid means a material that has a vertical flow of over two inches (50 mm) within a three-minute period, or a material having one gram or more liquid separation, when determined in accordance with the procedures specified in ASTM D 4359–84, ''Standard Test Method for Determining Whether a Material is a Liquid or a Solid,'' 1990 edition, which is incorporated by reference.

Note: This incorporation by reference has been approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. Copies may be inspected at the Dockets Unit, Room 8421, DOT headquarters building, 400 7th St. SW, Washington, DC 20590 or at the Office of the Federal Register, 800 North Capitol St. NW, Room 700, Washington, DC.

Maximum extent practicable means the limits of available technology and the practical and technical limits on an owner or operator of an onshore facility in planning the response resources required to provide the on-water recovery capability and the shoreline protection and cleanup capability to conduct response activities for a worst-case discharge of oil in adverse weather.

Non-petroleum oil means any animal fat, vegetable oil or other non-petroleum oil.

Oil means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

Note: This definition does not include hazardous substances (see 40 CFR part 116).

Other non-petroleum oil means a non-petroleum oil of any kind that is not an animal fat or vegetable oil.

Packaging means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the packaging requirements of this part. A compartmented tank is a single packaging.

Person means an individual, firm, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body, as well as a department, agency, or instrumentality of the executive, legislative or judicial branch of the Federal Government.

Petroleum oil means any oil extracted or derived from geological hydrocarbon deposits, including fractions thereof.

Qualified individual means an individual familiar with the response plan, trained in his or her responsibilities in implementing the plan, and authorized, on behalf of the owner or operator, to initiate all response activities identified in the plan, to enter into response-related contracts and obligate funds for such contracts, and to act as a liaison with the on-scene coordinator and other responsible officials. The qualified individual must be available at all times the owner or operator is engaged in transportation subject to part 130 (alone or in conjunction with an equally qualified alternate), must be fluent in English, and must have in his or her possession documentation of the required authority.

Transports or Transportation means any movement of oil by highway or rail, and any loading, unloading, or storage incidental thereto.

Vegetable oil means a non-petroleum oil or fat derived from plant seeds, nuts, kernels or fruits, not specifically identified elsewhere in this part.

Worst-case discharge means ''the largest foreseeable discharge in adverse weather conditions,'' as defined at 33 U.S.C. 1321(a)(24). The largest foreseeable discharge from a motor vehicle or rail car is the capacity of the cargo container. The term ''maximum potential discharge,'' used in § 130.31(a), is synonymous with ''worst-case discharge.''

§ 130.11 Communication requirements.

(a) No person may offer oil subject to this part for transportation unless that person provides the person accepting the oil for transportation a document indicating the shipment contains oil.

(b) No person may transport oil subject to this part unless a readily available document indicating that the shipment contains oil is in the possession of the transport vehicle operator during transportation.

(c) A material subject to the requirements of this part need not be specifically identified as oil when the shipment document accurately describes the material as: aviation fuel, diesel fuel, fuel oil, gasoline, jet fuel, kerosene, motor fuel, or petroleum.

§ 130.21 Packaging requirements.

Each packaging used for the transportation of oil subject to this part must be designed, constructed, maintained, closed, and loaded so that, under conditions normally incident to transportation, there will be no release of oil to the environment.

§ 130.31 Response plans.

(a) After September 30, 1993, no person may transport oil subject to this part unless that person has a current basic written plan that:

(1) Sets forth the manner of response to discharges that may occur during transportation;

(2) Takes into account the maximum potential discharge of the contents from the packaging;

(3) Identifies private personnel and equipment available to respond to a discharge;

(4) Identifies the appropriate persons and agencies (including their telephone numbers) to be contacted in regard to such a discharge and its handling, including the National Response Center; and

(5) For each motor carrier, is retained on file at that person's principal place of business and at each location where dispatching of motor vehicles occurs; and for each railroad, is retained on file at that person's principal place of business and at the dispatcher's office.

(b) After February 18, 1993, no person may transport an oil subject to this part in a quantity greater than 1,000 barrels (42,000 gallons) unless that person has a current comprehensive written plan that:

(1) Conforms with all requirements specified in paragraph (a) of this section;

(2) Is consistent with the requirements of the National Contingency Plan (40 CFR part 300) and Area Contingency Plans;

(3) Identifies the qualified individual having full authority to implement removal actions, and requires immediate communications between that individual and the appropriate Federal official and the persons providing spill response personnel and equipment;

(4) Identifies, and ensures by contract or other means the availability of, private personnel (including address and phone number), and the equipment necessary to remove, to the maximum extent practicable, a worst case discharge (including a discharge resulting from fire or explosion) and to mitigate or prevent a substantial threat of such a discharge;

(5) Describes the training, equipment testing, periodic unannounced drills, and response actions of facility personnel, to be carried out under the plan to ensure the safety of the facility

and to mitigate or prevent the discharge, or the substantial threat of such a discharge; and

(6) Is submitted, and resubmitted in the event of any significant change, to the Federal Railroad Administrator (for tank cars), or to the Federal Highway Administrator (for cargo tanks) at 400 Seventh Street SW, Washington, DC 20590–0001.

(Approved by the Office of Management and Budget under control number 2137–0591)

§ 130.33 Response plan implementation.

If, during transportation of oil subject to this part, a discharge occurs— into or on the navigable waters of the United States; on the adjoining shorelines to the navigable waters; or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States—the person transporting the oil shall implement the plan required by § 130.31, in a manner consistent with the National Contingency Plan, 40 CFR part 300, or as otherwise directed by the Federal on-scene coordinator.

Issued in Washington, DC on June 3, 1996, under authority delegated in 49 CFR part 1.

D.K. Sharma,

Administrator, Research and Special Programs Administration .

[FR Doc. 96–14611 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapter VI

[Docket No. 960606161–6161–01; I.D. 051796E]

RIN 0648–XX63

Limit on Fishery Management Plan Development; Public Law 104–134; Interpretation

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

ACTION: Interpretation.

SUMMARY: NMFS is issuing this document to provide its interpretation of the limitations placed on the use of appropriated funds by the Department of Commerce and Related Agencies Appropriations Act of 1996 (Act) for fiscal year 1996. The Act states that no appropriated funds may be used to develop or implement new fishery management plans (FMPs), FMP amendments, or regulations that create new individual fishing quota (IFQ), individual transferable quota (ITQ), or new individual transferable effort allocation programs, until offsetting fees to fund such programs are authorized under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The purpose of this interpretation is to provide guidance to the regional fishery management councils and the public on the programs for which funds may not be expended through the end of the fiscal year.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Margaret F. Hayes, Assistant General Counsel for Fisheries, 301–713–2231.

SUPPLEMENTARY INFORMATION:

Background

The President signed the Act (Public Law 104–134) on April 26, 1996. The Act provides funds for the Department of Commerce through September 30, 1996. Section 210 of the Act states the following:

> None of the funds appropriated under this Act or any other Act may be used to develop new fishery management plans, amendments or regulations which create new individual fishing quota, individual transferable quota, or new individual transferable effort allocation programs, or to implement any such plans, amendments or regulations approved by a Regional Fishery Management Council or the Secretary of Commerce after January 4, 1995, until offsetting fees to pay for the cost of administering such plans, amendments or regulations are expressly authorized under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). This restriction shall not apply in any way to any such programs approved by the Secretary of Commerce prior to January 4, 1995.

This provision is intertwined with bills currently pending in both Houses of Congress to reauthorize and amend the Magnuson Act. The House-passed bill, H.R. 39, would establish fees to be used to administer individual quota systems. The term ''individual quota'' is defined in section 16(b) of the House bill as ''a grant of permission to harvest or process a quantity of fish in a fishery, during each fishing season for which the permission is granted, equal to a stated percentage of the total allowable catch for the fishery.''

The Senate bill, S. 39, which has not yet passed the Senate, also would establish fees to fund an IFQ program. The bill (section 103) defines ''individual fishing quota'' to mean ''a revocable Federal permit under a limited access system to harvest a quantity of fish that is expressed by a unit or units representing a percentage of the allowable catch of a fishery that may be received or held for exclusive use by a person.''

Congress' intent in section 210 of the Act apparently was to halt the development and implementation of any individual quota system—whether the quotas are transferable or not—pending passage of a law amending the Magnuson Act to establish fees to finance such systems. The Senate added the term ''new individual transferable effort allocation program,'' to section 210 of the Act although that sort of effort control is not mentioned in either bill to amend the Magnuson Act.

Interpretation

NMFS interprets the term ''individual fishing quota'' as it is defined in S. 39. That definition is functionally similar to the definition of ''individual quota'' in H.R. 39. NMFS believes ''individual transferable quota'' is the same as an IFQ, with the additional aspect of transferability of quota among those eligible to hold ITQs. Neither term encompasses ''community development quotas,'' allocations to western Alaska communities that are treated separately in both bills.

NMFS interprets ''individual transferable effort allocation program'' to mean systems allowing fishermen to transfer among themselves or consolidate units of effort, such as days at sea (DAS) or number of traps. Proposals for such programs have been discussed by the New England Fishery Management Council for the Atlantic sea scallop and American lobster fisheries.

Programs Affected

Because they are funded through Federal appropriations, the regional fishery management councils must suspend work until the end of the fiscal year on portions of FMPs, amendments, or regulations that relate to new IFQs, ITQs, or individual transferable effort allocation programs. NMFS has notified each council of pending proposals it believes are within the scope of this restriction, as follows:

North Pacific Council: (1) IFQs for the Alaska pollock fishery, whereby a vessel owner would be allocated annually a certain percentage of the pollock total allowable catch. (2) Vessel bycatch accounts, allocations of an allowable take of prohibited species bycatch to an individual vessel owner or to groups of vessel owners.

Pacific Council: Cumulative trip limits in the non-trawl sablefish fishery, whereby an allowable catch would be divided among a fixed number of permit holders, based either on historic harvest of the vessel or on an equal allocation

among all vessels. The cumulative trip limit is the equivalent of a percentage share the vessel owner is entitled to harvest.

Gulf Council: Red snapper ITQ amendment. While the amendment was approved and final regulations published in 1995, the ITQ system has not yet been implemented. Section 210 prohibits any work on implementing the system until the end of this fiscal year.

Mid-Atlantic Council: An ITQ system for mahogany quahogs. Although this provision is a modification of an approved ITQ system under Amendment 8 to the Surf Clam and Ocean Quahog FMP, its characteristics (e.g., the unit of allocation and the period of landings on which it is calculated) differ so substantively that it must be viewed as a new ITQ system.

New England Council: Aspects of proposed Amendment 6 to the Atlantic Sea Scallop FMP relating to transferability or consolidation of DAS, and proposed Amendment 5 to the American Lobster FMP relating to transferable quotas and traps.

Classification

This final rule is issued under the Magnuson Act, 16 U.S.C. 1801 *et seq*.

In that this rule merely interprets a provision of Public Law 104–134 without creating any new rights or duties, it is not subject to the requirement to provide prior notice and opportunity for public comment under 5 U.S.C. 553(b)(A). Similarly, as an interpretive rule, it is not subject to a 30-day delay in effective date pursuant to authority set forth at 5 U.S.C. 553(d)(2).

This rule has been determined to be not significant for the purposes of E.O. 12866.

Dated: June 11, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–15323 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 061096A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Cod by Vessels Using Trawl Gear

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for the Pacific cod fishery by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl Pacific cod fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), June 14, 1996, until 12 noon, A.l.t., October 25, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

Directed fishing for Pacific cod by vessels using trawl gear in the BSAI was prohibited on May 14, 1996, (61 FR 24730, May 16, 1996) to prevent exceeding the first seasonal bycatch allowance of Pacific halibut apportioned to that fishery.

The Director, Alaska Region, NMFS, has determined that as of May 25, 1996, 89 metric tons of halibut mortality remain in the first seasonal bycatch allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels using trawl gear in the BSAI.

All other closures remain in full force and effect.

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

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

Dated: June 11, 1996.

Richard H. Schaefer,

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

[FR Doc. 96–15257 Filed 6–12–96; 10:44 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 117
Monday, June 17, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 93–076–9]

RIN 0579–AA59

Animal Welfare; Marine Mammals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The purpose of this notice is to announce the third and final meeting of the Marine Mammal Negotiated Rulemaking Advisory Committee.

DATES: July 8, 9, and 10, 1996, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the USDA Center at Riverside, Conference Center Rooms A and B, 4700 River Road, Riverdale, Maryland 20737, (301) 734–7833.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care Staff, REAC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–7833.

SUPPLEMENTARY INFORMATION: In a Federal Register notice published on May 22, 1995 (60 FR 27049–27051, Docket No. 93–076–3), we announced our intent to establish a Marine Mammal Negotiated Rulemaking Advisory Committee (Committee), chartered under the Federal Advisory Committee Act (Pub. L. 92–463). The Committee will review the current regulations and standards under the Animal Welfare Act concerning the care and maintenance of captive marine mammals, and provide consensus language to amend the regulations. The first meeting of the Committee, which was announced in a Federal Register notice published on September 8, 1995 (60 FR 46783–46784, Docket No. 93–076–7), was held on September 25–26, 1995. The second meeting of the Committee, which was announced in a Federal Register notice published on March 8, 1996 (61 FR 9371, Docket No. 93–076–8), was held on April 1–3, 1996. The March 8 Federal Register notice stated that the April 1–3 meeting would be the final Committee meeting. However, following that meeting, funding was obtained to allow for one more meeting. This notice announces the third and final meeting of the Committee.

The purpose of the meeting is to bring together members of the Animal and Plant Health Inspection Service, representatives of the marine mammal public display community, the marine mammal research community, the animal welfare community, and members of other Federal agencies with a definable stake in marine mammal care issues to frame a recommended rulemaking proposal to amend the current regulatory program concerning care and maintenance standards for captive marine mammals.

The Committee will determine the final agenda for the meeting at its beginning. The tentative agenda for the meeting is as follows:

First Day

Morning Session—8:30 a.m.

Establish Agenda for Meeting
Discussion of Marine Mammal Regulations

Afternoon Session—1 p.m.

Discussion of Marine Mammal Regulations
Public Comments

Second Day

Morning Session—8:30 a.m.

Establish Agenda for Day
Committee Administrative Issues
Discussion of Marine Mammal Regulations

Afternoon Session—1 p.m.

Discussion of Marine Mammal Regulations
Public Comments

Third Day

Morning Session—8:30 a.m.

Establish Agenda for Day
Committee Administrative Issues
Discussion of Marine Mammal Regulations

Afternoon Session—1 p.m.

Discussion of Marine Mammal Regulations
Public Comments

The meeting will be open to the public. Public participation at the meeting will be allowed during periods announced at the meeting for this purpose.

This notice is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 11th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–15279 Filed 6–14–96; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–0929]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System is proposing to amend its Regulation D regarding reserve requirements of depository institutions issued pursuant to section 19 of the Federal Reserve Act in order to reduce regulatory burden and simplify and update requirements. This proposal to modernize Regulation D is in accordance with the Board's policy of regular review of its regulations and the Board's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

DATES: Comments must be received by August 16, 1996.

ADDRESSES: Comments, which should refer to Docket No. R–0929, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th

Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in § 261.8 of the Board of Governors' Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Brian Reid, Economist, Division of Monetary Affairs (202/452–3589); Sue Harris, Economist, Division of Research and Statistics (202/452–3490); or Rick Heyke, Staff Attorney, Legal Division (202/452–3688). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

As part of its policy of regular review of its regulations, and consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (''Riegle Act''), the Board of Governors of the Federal Reserve System (''Board'') is proposing to amend its Regulation D regarding reserve requirements of depository institutions (12 CFR Part 204) issued pursuant to section 19 of the Federal Reserve Act. Section 303 of the Riegle Act requires each federal banking agency to review and streamline its regulations and written policies to improve efficiency, reduce unnecessary costs, and remove inconsistencies and outmoded and duplicative requirements. The proposed amendments are designed to reduce regulatory burden and simplify and update the Regulation.

The principal amendments being proposed are described below. In general, the amendments delete transitional rules relating to the expansion of reserve requirements to nonmember depository institutions, the authorization of NOW accounts nationwide, and other matters that no longer have a significant effect.

Time Deposits

Section 204.2(c)(1) defines time deposits as deposits from which the depositor may not make withdrawals within six days after the date of deposit (or notice of withdrawal) or partial withdrawal unless such withdrawals are subject to an early withdrawal penalty. Under certain circumstances specified in footnote 1, a time deposit may be paid before maturity without imposing the early withdrawal penalty. A time deposit generally may be paid without penalty from the seventh day after deposit through maturity, absent partial withdrawals, as the imposition of an early withdrawal penalty is required under the time deposit definition only during the first six days after deposit. The Board proposes to clarify that the footnote is not intended to impose a prohibition on withdrawals before maturity, but to permit penalty-free withdrawals under certain circumstances during the period when the imposition of an early withdrawal penalty otherwise would be required.

Nonpersonal Time Deposits

The definition of nonpersonal time deposit in § 204.2(f)(1) (iii) and (iv) distinguishes between transferable time deposits originally issued before October 1, 1980, and those issued on or after that date. Since the Board believes that most of these deposits have since matured, this distinction is no longer meaningful and the Board proposes to delete it.

Section 204.2(f)(3) requires that a nonpersonal time deposit with a stated maturity or notice period of 1½ years or more either be subject to a minimum withdrawal penalty of 30 days' interest (if withdrawn more than six days but within 1½ years after the date of deposit) or be treated as a deposit with an original maturity or notice period of less than 1½ years. Since 1991, the reserve requirement ratio has been set at zero for all time deposits regardless of maturity. Moreover, the form for reporting reservable liabilities (Form FR 2900) no longer requires depository institutions to report the amount of time deposits by category of maturity. The requirement to treat time deposits not subject to a minimum penalty of 30 days' interest as having an initial maturity of less than 1½ years is thus of no practical impact. The Board therefore proposes to delete it and footnote 2 to § 204.2(c)(1)(i), which refers to it.

Eurocurrency Liabilities

The definition of Eurocurrency liabilities in section 204.2(h)(1) includes an amount equal to certain assets that were held by a depository institution's International Banking Facility or by non-United States offices of the depository institution or of an affiliated Edge or agreement corporation and that were acquired from the depository institution's United States offices on or after October 7, 1979. The Board proposes to delete the exclusion of assets acquired before October 7, 1979, because it believes that the amount of these assets is immaterial.

Allocation of Reserve Requirements Exemption

The allocation of the reserve requirements exemption specified in § 204.3(a)(3)(i) requires that the exemption be allocated first to net transaction accounts in the form of NOW (and similar) accounts and second to other transaction accounts. This provision was related to the phase-in of reserve requirements for nonmember banks and the authorization of NOW and similar transaction accounts nationwide. Since the phase-in is now complete and nonmember institutions are subject to the same reserve requirements as member banks, the provision has ceased to have any effect, and the Board proposes to delete it.

Deductions Allowed in Computing Reserves

The deduction in § 204.3(f)(1) limits the amount of cash items in process of collection and balances subject to immediate withdrawal due from domestic depository institutions that may be subtracted from an institution's NOW accounts. Amounts in excess of this limit may be subtracted from other transaction accounts. Since the phase-in of reserve requirements for nonmember banks is now complete, all types of transaction accounts are subject to the same reserve requirements. Therefore, this limitation has ceased to have any effect and the Board proposes to delete it.

Federal Reserve Credit for Depository Institutions Maintaining Pass-Through Balances

Section 19(e) of the Federal Reserve Act prohibits member banks from acting as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal Reserve Bank except by permission of the Board. Regulation A, Extensions of Credit by Federal Reserve Banks (12 CFR Part 201), was amended in 1993 to delegate authority for this permission to the Federal Reserve Bank that extends the credit. 12 CFR 201.6(d). The proposal would correspondingly amend § 204.3(i)(5)(iv) of Regulation D effectively to complete the delegation of this authority to the Federal Reserve Bank that extends the credit.

Transition Rules

The regulation currently includes in § 204.4(a) a transition rule for depository institutions outside of Hawaii that were nonmembers of the Federal Reserve System on July 1, 1979, and that remained nonmembers. With the completion of the phase-in on September 10, 1987, this rule ceased to

have any effect. Section 204.4(b) contains a transition rule for depository institutions that were not members between July 1, 1979, and September 1, 1980, and that subsequently became members; since reserve requirements for nonmember institutions are fully phased in, this rule also has ceased to have any effect. Section § 204.4(d) contains a transition rule for nonmember depository institutions that were engaged in business in Hawaii on August 1, 1978, and that remained nonmembers; this rule ceased to have any effect on January 7, 1993. Therefore, the Board proposes to delete these rules.

Section 204.4(c) sets forth a transition rule for *de novo* depository institutions with daily average reservable liabilities of less than $50 million whereby their reserve requirement is 40 percent of the reserves otherwise required in maintenance periods during the first quarter after entering into business, increasing to 100 percent in maintenance periods during the eighth and succeeding quarters. The low reserve tranche of a depository institution's net transaction accounts is currently subject to a reserve requirement of 3 percent, as compared with 10 percent for its net transaction accounts in excess of the low reserve tranche. Since 1982, the low reserve tranche cutoff has been indexed to net transaction accounts of all depository institutions; as a result, the cutoff has increased from $25 million to $52 million. Thus, all transaction accounts of *de novo* depository institutions that could avail themselves of this transition rule are now covered by the low reserve tranche. Moreover, beginning in 1982, $2 million of reservable deposits have been subject to a zero percent reserve requirement; this exemption is indexed to total reservable liabilities of all depository institutions and is currently $4.3 million.

In addition, a depository institution's vault cash may be used to meet its reserve requirement. Since *de novo* depository institutions generally have relatively low levels of deposits in relation to the reserve requirement exemption and the low reserve tranche cutoff, most are able to meet reserve requirements with vault cash and the others maintain minimal reserve balances. (Currently 18 depository institutions are receiving *de novo* phase-ins, and 14 of them are fully meeting their reserve requirements with vault cash.) Thus, this rule provides minimal benefits in terms of reducing required reserve balances of *de novo* institutions and unnecessarily complicates the processing of deposit reporting and reserve calculations. Consequently, the Board proposes to delete it. In order to avoid disrupting economic expectations based on the *de novo* transition rule, however, any institution covered by the *de novo* transition rule on the effective date of the amendments will be grandfathered for purposes of determining its required reserves.

Section 204.4(e) governs transition requirements in cases of mergers and consolidations. Paragraph (e)(1) covers ''similar'' mergers, where all depository institutions are subject to the same transition rules, and paragraph (e)(2), ''dissimilar'' mergers, where the institutions are subject to different transition rules. Currently, no institution is subject to the ''dissimilar'' merger transition rules. With the phase-in of reserve requirements for nonmember institutions, the transition rules (other than the merger and *de novo* rules) have become inoperative. Moreover, as discussed above, the *de novo* rules no longer have a significant effect in most cases, and the Board is proposing to delete them. Therefore, the difference between the ''similar'' and ''dissimilar'' merger rules is minimal, and would be eliminated under the proposal. As a result, all mergers would be ''similar'' mergers. Therefore, the Board proposes to delete the ''dissimilar'' merger transition rule and apply the current ''similar'' merger transition rule to all mergers.

Reserve Ratios

Section 204.9(b) sets forth the reserve ratios in effect during the last reserve computation period prior to September 1, 1980, for use in transition adjustments that are no longer applicable. The Board proposes to delete the section.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why the agency is considering the action and a statement of the objectives of, and legal basis for, the proposed rule—are contained in ''Supplementary Information—Background'' above. The Regulation D amendments being proposed require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all depository institutions regardless of size, except that the transition rule for *de novo* institutions applies only to institutions with total transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities of less than $50 million. Currently there are 18 institutions subject to the *de novo* transition rule.

Except for the transition rules relating to dissimilar mergers and *de novo* institutions, the amendments are burden-reducing. The current transition rules for dissimilar mergers provide a minor temporary potential reduction in reserve requirements for certain merged institutions. However, no institutions are currently benefiting from the dissimilar merger rules. The transition rules for *de novo* institutions, which are only applicable to institutions with reservable liabilities of less than $50 million and provide only a temporary benefit, have become much less significant with the increase in the low-reserve tranche cutoff to $52.0 million. Partly for this reason, only 4 of the 18 institutions currently receiving *de novo* phase-in benefits are not fully meeting their reserve requirements with vault cash. If the *de novo* transition rule were eliminated, the number of *de novo* institutions with required reserves in excess of vault cash would not change, and the additional required reserves of these 4 institutions would be small. Moreover, in order to avoid disrupting economic expectations based on the *de novo* transition rule, any institution covered by the *de novo* transition rule on the effective date of the amendments will be grandfathered for the purpose of determining its required reserves. Therefore, the Board believes that the amendments will not have a significant adverse economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act notice of 1995 (44 U.S.C. Ch. 3506; 5 CFR part 1320, Appendix A.1), the Board has reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. No collection of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend part 204 of chapter II of title 12 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. Section 204.2 is amended as follows:

a. In paragraph (c)(1)(i), the introductory text of footnote 1 is amended by removing ''before maturity'' and adding in its place, ''during the period when an early withdrawal penalty would otherwise be required under this part'', removing ''the'' after ''imposing'' adding in its place, ''an'', removing ''penalties'' and adding in its place ''penalty'', and footnote 2 is removed.

b. In paragraphs (c)(1)(iv)(C), (c)(1)(iv)(E), and (d)(2), footnotes 3 through 6 are redesignated as footnotes 2 through 5, respectively.

c. Paragraph (f)(1)(iii) is revised.

d. Paragraph (f)(1)(iv) is removed and paragraph (f)(1)(v) is redesignated as paragraph (f)(1)(iv).

e. In newly redesignated paragraphs (f)(1)(iv)(C) and (f)(1)(iv)(E), footnotes 7 and 8 are redesignated as footnotes 6 and 7, respectively.

f. Paragraph (f)(3) is removed.

g. In paragraph (h)(1)(ii)(A), footnote 10 is redesignated as footnote 8 and is amended by removing ''(1) that were acquired before October 7, 1979, or (2)''.

h. In paragraphs (h)(2)(ii) and (t), footnotes 11 and 12 are redesignated as footnotes 9 and 10, respectively, and newly redesignated footnote 9 is amended by revising ''Footnote 10'' to read ''footnote 8''. The revisions are as follows:

§ 204.2 Definitions.

* * * * *

(f)(1) *Nonpersonal time deposit* * * *

* * * * *

(iii) A transferable time deposit. A time deposit is transferable unless it contains a specific statement on the certificate, instrument, passbook, statement or other form representing the account that is not transferable. A time deposit that contains a specific statement that it is not transferable is not regarded as transferable even if the following transactions can be effected: a pledge as collateral for a loan, a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment, or otherwise by operation of law or a transfer on the books or records of the institution; and

* * * * *

3. Section 204.3 is amended as follows:

a. Paragraph (a)(3)(i) is removed and the paragraph designation (a)(3)(ii) is removed.

b. Paragraph (f)(1) is revised.

c. Paragraph (i)(5)(iv) is removed. The revisions are as follows:

§ 204.3 Computation and maintenance.

* * * * *

(f) *Deductions allowed in computing reserves.* (1) In determining the reserve balance required under this part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and agreement corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts.

* * * * *

4. Section 204.4 is revised to read as follows:

§ 204.4 Transitional adjustments in mergers.

In cases of mergers and consolidations of depository institutions, the amount of reserves that shall be maintained by the surviving institution shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance periods occurring during quarters following merger or consolidation	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

5. Section 204.8 is amended as follows:

a. In paragraph (a)(2)(i)(B)(*5*), footnotes 13 and 14 are redesignated as footnotes 11 and 12, respectively.

b. In paragraph (a)(3)(v), footnotes 15 and 16 are redesignated as footnotes 13 and 14, respectively, and revised to read as follows:

§ 204.8 International banking facilities.

(a) *Definitions.* * * *

* * * * *

(3) *International banking facility extension of credit or IBF loan* * * *

* * * * *

(v) * * * [13] * * * [14] * * *

§ 204.9 [Amended]

6. Section 204.9 is amended by removing paragraph (b), by redesignating paragraph (a)(1) as paragraph (a), and by redesignating paragraph (a)(2) as paragraph (b).

By order of the Board of Governors of the Federal Reserve System, June 10, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–15120 Filed 6–14–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–17–AD]

Airworthiness Directives; Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, and TH–55A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede an existing airworthiness directive (AD), applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269A–2, and 269B helicopters, that currently requires initial and repetitive inspections of the main rotor thrust bearing (bearing) for bearing rotational roughness, corrosion, inadequate lubrication, physical damage, or excessive zinc chromate paste or moisture. This action would require the same initial and repetitive inspections required by the existing AD, but would extend the retirement life for certain bearings, and would remove the Model 269A–2 helicopter from, and add the Model TH–55A helicopters to the applicability of this AD. This proposal is prompted by an FAA analysis of service information issued by the

[13] See footnote 11.

[14] See footnote 12.

manufacturer that extends the retirement life for certain bearings. The actions specified by the proposed AD are intended to prevent failure of the bearing, loss of the main rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received by August 16, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–17–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may be examined at the FAA, Office of the Assistant Chief Counsel, Room 663, 2601 Meacham Blvd., Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Ray O'Neill, Aerospace Engineer, Airframe and Propulsion Branch, New York Aircraft Certification Office, FAA, New England Region, 10 5th Street, Valley stream, New York 11581, telephone (516) 256–7505, fax (516) 568–2716.

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 No. 94–SW–17–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, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–17–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137

Discussion

On October 11, 1968, the FAA issued AD 68–21–05, Amendment 39–672 (33 FR 15543, October 19, 1968), to require, for Model 269A helicopters, serial numbers (S/N) 0011 through 0979 (except Model TH–55A helicopters), Model 269A–1 helicopters, S/N 0001 through 0041, Model 269A–2 helicopter, S/N 0001, and Model 269B, S/N 0001 through 0370, an initial inspection at 25 hours time-in-service (TIS) and thereafter, repetitive inspections at 150 hours TIS intervals of the bearing, part number (P/N 269A5050–50 or P/N 269A5050–51, for bearing corrosion, inadequate lubrication, physical damage, or evidence of excessive zinc chromate paste or moisture; and, to establish a bearing retirement life of 300 hours TIS. The AD was revised and issued on July 24, 1970 (35 FR 12532, August 6, 1970) to require, for bearings, P/N 269A5050–73, repetitive inspections at 600 hours TIS intervals for bearing corrosion, rust, freedom of rotation, looseness, binding, nicks, burrs, cracks, and inadequate lubrication; and to establish a bearing retirement life of 1,800 hours TIS. These actions were prompted by several reports of failures of the bearings in military-use helicopters (Model TH–55a) that were equipped with the same bearings. That condition, if not corrected, could result in failure of the main rotor thrust bearing, loss of the main rotor, and subsequent loss of control of the helicopter.

Since the issuance of that AD, Hughes Helicopters, Inc., issued a report (Hughes Report JS–10–3, Revised May 4, 1979), which stated that the retirement life for the bearing, P/N 269A5050–73, should be extended from 1,800 hours TIS to 3,000 hours TIS. There have been no reports of failures of that bearing since the issuance of AD 68–21–05. In 1979, the FAA incorporated the 3,000 hours TIS retirement life into Type Certificate Data Sheet 4H12, Revision 19, which governs Schweizer Aircraft Corporation Model 269A, 269A–1, 269B, and former TH–55A helicopters. Additionally, the Model 269A–2 Serial No. 0001) was deleted from that Type Certificate Data Sheet. Therefore, the Model 269A–2 is removed from the applicability of this AD. Finally the Model TH–55A helicopter was omitted from the applicability of the existing AD, and has been added to the applicability of this AD.

Since an unsafe condition has been identified that is likely to exist or develop another Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, and TH–55A helicopters of the same type design, the proposed AD would supersede AD 68–21–05 to require the same initial and repetitive inspections required by the existing AD, but extend the retirement life for bearings, P/N 269A5050–73, from 1,800 hours TIS to 3,000 hours TIS.

The FAA estimates that 500 helicopters of U.S, registry would be affected by this proposed AD, that it would take approximately 8 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,890 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,185,000.

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 USC 106(g), 40113, and 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–1055 (35 FR 12532, August 6, 1970), and Amendment 39–672 (33 FR 15543, October 19, 1968), and by adding a new airworthiness directive (AD), to read as follows:

Schweizer Aircraft Corporation and Hughes Helicopters, Inc.: Docket No. 94–SW–17–AD. Supersedes AD 68–21–05, Amendment 39–1055 and Amendment 39–672.

Applicability: Model 269A helicopters, serial numbers (S/N) 0011 through 1109, Model 269A–1 helicopters, S/N 0001 through 0041, Model 269B, S/N 0001 through 0444, and Model TH–55A, with main rotor thrust bearing, part number (P/N) 269A5050–50, –51 or –73, installed, certified 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 (g) 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 within 25 hours time-in-service (TIS) after the effective date of this AD, unless accomplished previously.

To prevent failure of the main rotor thrust bearing, loss of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) From available helicopter records, determine the TIS of the appropriate main rotor thrust bearing (bearing), part number (P/N) 269A5050–50, 269A5050–51, or 269A5050–73.

(1) If the TIS on the bearing, P/N 269A5050–50 or –51, equals or exceeds 300 hours TIS, replace the bearing before further flight.

(2) If the TIS on the hearing, P/N 269A5050–50 or –51, equals or exceeds 275 hours TIS, retire the bearing from service within 25 hours TIS after the effective date of this AD.

(b) Inspect bearing, P/N 269A5050–50 or –51, for rotational roughness, corrosion, inadequate lubrication, physical damage, moisture or inadequate drainage due to build-up of zinc chromate paste in accordance with Step II, paragraph b of Schweizer Service Notice (SSN) No. N–59, dated October 9, 1968.

(1) If bearing rotational roughness, corrosion, inadequate lubrication, physical damage, moisture or inadequate drainage due to build-up of zinc chromate paste is found, replace the bearing with an airworthy bearing.

(2) If no bearing rotational roughness, corrosion, lack of lubrication, physical damage, moisture or inadequate drainage due to build-up of zinc chromate paste is found, thereafter, inspect the bearing in accordance with this paragraph upon attaining an additional 150 hours TIS.

(3) For replacement bearings, inspect in accordance with this paragraph upon attaining 150 hours TIS, unless the bearing reaches its 300 hour TIS retirement life limit prior to this inspection.

(c) For bearing, P/N 269A5050–73:

(1) Inspect the bearing for corrosion, rust, freedom of rotation, looseness, binding, nicks, burrs, cracks and lubrication. Thereafter, inspect the bearing at intervals not to exceed 600 hours TIS.

(2) As necessary, repack the bearing cavity in accordance with Schweizer Aircraft Corporation CKP–C–41 ''Installation Instructions For 269 Series Helicopters, SA–269K–057–1 Main Rotor Thrust Bearing Kit,'' dated June 9, 1994.

(d) This AD establishes a retirement life of 300 hours TIS for bearings, P/Ns 269A5050–50 and –51 and a retirement life of 3,000 hours TIS for bearing, P/N 2695050–73. However, bearings, P/Ns 269A5050–50 and –51, with at least 275 hours TIS but less than 300 hours TIS on the effective date of this AD, need not be retired until or before the accumulation of an additional 25 hours TIS after the effective date of this AD.

(e) Inspect the thrust bearing nut (nut), P/N 269A1306–5, for corrosion and physical damage and determine whether the nut has been modified in accordance with Step III of SSN No. N–59, dated October 9, 1968.

(1) If corrosion or physical damage is found, replace the nut with an airworthy nut that has been modified in accordance with Step III of SSN No. N–59, dated October 9, 1968.

(2) If the nut has not been modified, modify the nut in accordance with Step III of SSN No. N–59, dated October 9, 1968.

(f) Inspect the interior of the main rotor mast (mast) for corrosion, physical damage, foreign materials, moisture or inadequate drainage due to a buildup of zinc chromate paste and determine whether the mast has been modified in accordance with Step II of SSN No. N–59, dated October 9, 1968 to install a drain hole.

(1) If corrosion or physical damage is found, replace the mast with an airworthy mast that has been modified in accordance with Step III of SSN No. N–59, dated October 9, 1968.

(2) If the interior of the mast has foreign materials, moisture or inadequate drainage due to a buildup of zinc chromate past, clean the area with a suitable solvent in accordance with Step II of SSN No. N–59, dated October 9, 1968.

(3) If the mast has not been modified, modify the mast in accordance with Step III of SSN No. N–59, dated October 9, 1968.

(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, New York Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft 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 helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on June 6, 1996.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–15214 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–ASO–22]

Proposed Establishment of VOR Federal Airways V–603 and V–605; SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish two Federal Airways, V–603 from Pulaski, VA, to Columbia, SC, and V–605 fro Holston Mountain, TN, to Spartanburg, SC. Establishing new airways would expedite the flow of air traffic and reduce the workload for the pilot and controller.

DATES: Comments must be received on or before July 29, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 95–ASO–22, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief

Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Rules Division, ATA–400 Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ASO–22.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the Federal Aviation Administration, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by establishing two Federal Airways, V–603 from Pulaski, VA, to Columbia, SC, and V–605 from Holston Mountain, TN, to Spartanburg, SC. Presently, aircraft transitioning through the terminal airspace at Charlotte/Douglas International Airport operating at or below 12,500 feet are being radar vectored west of that airport to provide for a safe and efficient operation. Establishing V–603 and V–605 would provide a published route through the Charlotte terminal airspace, expedite the flow of air traffic, and reduce the workload for pilots and controllers. Domestic Very High Frequency Omnidirectional Range Federal airways are published in paragraph 6010(a) of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–603 [New]

From Pulaski, VA; Barretts Mountain, NC; INT Barretts Mountain 183°T(189°M) and Columbia, SC, 350°T(352°M) radials; to Columbia.

* * * * *

V–605 [New]

From Holston Mountain, TN; INT Holston Mountain 171°(175°M) and Spartanburg, SC, 358°T(360°M) radials to Spartanburg.

* * * * *

Issued in Washington, DC, on June 5, 1996.

Harold W. Becker,

Acting Program Director for Air Traffic, Airspace Management.

[FR Doc. 96–15213 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 121 and 135

[Docket No. 28586; Notice No. 96–5]

RIN 2120–AE81

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); correction.

SUMMARY: This document contains a correction to the NPRM published in the Federal Register on May 23, 1996 (61 FR 26036). The NPRM proposes to rescind the Mode S transponder requirement for all aircraft operations under part 135 and certain aircraft operations under part 121 of Title 14, Code of Federal Regulations.

DATES: Comments must be received on or before July 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel V. Meier Jr., (202) 267–3749.

Correction of Publication: In the NPRM document (FR Doc. 96–13030) on

page 26036 in the issue of Thursday, May 23, 1996, make the following correction:

In the **ADDRESSES** section on page 26036, in the first column, last line, the docket number was listed as 28537. This number should be changed to read 28586.

Issued in Washington, DC on June 12, 1996.

Joseph A. Conte,

Acting Assistant Chief Counsel.

[FR Doc. 96–15334 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

Customs Service Field Organization; Establishment of Sanford Port of Entry

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations pertaining to Customs field organization by establishing a new port of entry at Sanford, Florida. The new port of entry would include Orlando-Sanford Airport, located in the city of Sanford, Seminole County, Florida, which is currently operated as a user-fee airport known as Sanford Regional Airport. This change will assist the Customs Service in its continuing efforts to achieve more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before July 17, 1996.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th St., NW, Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of Field Operations, Resource Management Division (202) 927–0196.

SUPPLEMENTARY INFORMATION:

Background

To achieve more efficient use of its personnel, facilities, and resources, and in order to provide better services to carriers, importers, and the public in Central Florida, Customs proposes to amend § 101.3(b)(1), Customs Regulations (19 CFR 101.3(b)(1)), by establishing a new port of entry at Sanford, Florida. The new port of entry, located in Seminole County, Florida, would include the Orlando-Sanford Airport, which currently operates as Sanford Regional Airport, and is listed in § 122.15(b) of the Customs Regulations as a user-fee airport.

Port of Entry Criteria

No formal application procedures have been adopted for purposes of requesting new or expanded Customs services. The procedure most commonly followed has been for a recognized civic or government organization (such as a chamber of commerce, seaport or airport authority, or city government) to submit a written request to the director of the Customs port nearest where the facility is or would be located, setting forth the reason for the new or expanded service. However, there is no prohibition which prevents Customs from initiating the establishment of a port of entry where Customs has reason to believe or made a determination that the necessity for a new facility is justified. Favorable consideration of requests normally hinges on whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location.

The criteria considered by Customs in determining whether to establish a port of entry are found in T.D. 82–37 (47 FR 10137), as revised by T.D. 86–14 (51 FR 4559) and T.D. 87–65 (52 FR 16328). Under these criteria, which are not absolute, a community requesting a port of entry designation must:

(1) Demonstrate that the benefits to be derived justify the Federal Government expense involved;

(2) Be serviced by at least two major modes of transportation (rail, air, water, or highway); and

(3) Have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius).

In addition, if the facility applies for designation as a port of entry based solely upon the consumption entries criterion (see below), it must make a commitment to make optimal use of electronic data transfer capabilities to permit integration with Customs Automated Commercial System (ACS), which provides a means for the electronic processing of entries of imported merchandise. Further, the actual or potential Customs workload (minimum number of transactions per year) at the proposed port of entry must meet one of several alternative minimum requirements:

(1) 15,000 international air passengers; or

(2) 2,500 formal (over § 1,250 in Customs value) or informal (not over § 1,250 in Customs value) consumption entries; or

(3) In the case of land border ports, 150,000 vehicles; or

(4) 2,000 scheduled international aircraft arrivals (passenger and/or cargo); or

(5) 350 cargo vessel arrivals; or

(6) Any appropriate combination of the above.

Lastly, facilities at the proposed port of entry must include cargo and passenger facilities, warehousing space for the secure storage of imported cargo pending final Customs inspection and release, and administrative office space, inspection areas, storage areas and other space necessary for regular Customs operations.

The proposal set forth in this document is based on Customs analysis of a report prepared for the Central Florida Regional Airport Board which manages the airport at Sanford and shows projected workload figures for the airport for the next decade. That report provides that although Sanford Regional Airport only became a user fee airport in 1991, since 1980 it has become the fastest growing airport for international passenger clearance services in Florida. In response to this growth, the Airport Board has elected to make substantial and long term investment in new international arrival facilities to serve this growing Central Florida market. Current flight schedules for the airport beginning in mid-April 1996 through October of this year project some 413 charter airline flights carrying approximately 118,732 international passengers.

With regard to the above criteria, Customs believes that the Federal Government would benefit from the port of entry designation because Orlando-Sanford Airport (currently operating as Sanford Regional Airport) would be available to share the workload presently handled at ports of entry such as Miami International Airport. The report further provides that State Roads 46 and 417 provide highway access to the airport, and that the population of the Seminole county-area was 287,529 in 1990 and forecast to reach 392,500 by the year 2000, which is well above the minimum 300,000 required. Further, the report provides that the Central Florida Region—comprising the surrounding counties of Lake, Volusia, Orange, Brevard, and Osceola—offered a combined additional population of

1,623,518 in 1990, forecasted to reach 2,209,957 by the year 2000. Because Sanford could qualify for port of entry status on the strength of the potential international passenger processing figures at the airport alone, and is not expected to process many consumption entries, Customs believes that the facility does not, at this time, have to make a commitment to make optimal use of electronic data transfer capabilities to permit integration with Customs Automated Commercial System (ACS), which provides a means for the electronic processing of entries of imported merchandise. Lastly, since the airport is currently a Customs user fee airport, Customs knows that office, storage, and examination space are currently available for use by Customs.

Conditional Status

Based on the above, Customs believes that there is sufficient justification for establishment of the proposed port of entry at Sanford. If, after reviewing the public comments, Customs decides to terminate Sanford's designation as a user-fee airport, then Customs will notify the airport of that determination in accordance with the provisions of 19 CFR 122.15(c). However, it is noted that this proposal relies on potential, rather than actual, workload figures. Therefore, even if the proposed port of entry designation is adopted as a final rule, in 3 years Customs will review the actual workload generated within the new port of entry. If that review indicates that the actual workload is below the T.D. 82–37 standards, as amended, procedures may be instituted to revoke the port of entry status. In such case, the Airport may reapply to become a user fee airport under the provisions of 19 U.S.C. 58b.

Description of Proposed Port of Entry Limits

The geographical limits of the proposed Sanford port of entry would be as follows:

The Orlando-Sanford Airport, which consists of approximately 2,000 acres which are located in Seminole County, Florida, beginning in the north/east at the intersection of State Road 46 and State Road 417 and proceeding south to Lake Mary Boulevard, turning west to Sanford Boulevard, and finally turning north to State Road 46 to the point of beginning.

Proposed Amendments

If the proposed port of entry designation is adopted, the list of Customs ports of entry at § 101.3(b)(1) will be amended to include Sanford as a port of entry in Florida, and Sanford Regional Airport will be deleted from the list of user-fee airports at § 122.15(b).

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 4th floor, 1099 14th St., NW, Washington, DC.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

The Regulatory Flexibility Act, and Executive Order 12866

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities, as the proposed amendments concern the status of only one airport facility. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

George J. Weise,

Commissioner of Customs.

Approved: May 15, 1996.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–15316 Filed 6–14–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 777

[FHWA Docket No. 96–8]

RIN 2125–AD78

Mitigation of Impacts to Wetlands

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: In accordance with the President's Regulatory Reinvention Initiative, the FHWA proposes to amend its regulation outlining the procedures to be followed in mitigating the impacts of Federal-aid highway projects and programs to wetlands. The current regulation has become outdated as a result of advances in the science of wetland management and the amendments made by sections 1006(d) and 1007(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat.1914) to the statutory provisions of title 23, United States Code (U.S.C.). The ISTEA amendments significantly alter the range and timing of alternatives eligible for Federal-aid participation for mitigation of wetland impacts due to Federal-aid highway projects. Accordingly, this proposal would revise the current regulation to conform to the ISTEA amendments, thereby providing more flexibility to State highway agencies in determining eligibility of mitigation alternatives for Federal participation. This proposal would broaden the scope of the current regulation to encompass all wetlands mitigation projects eligible for Federal participation, not just those involving privately owned wetlands.

DATES: Comments must be received on or before August 16, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 96–8, Federal Highway Administration, Room 4232, HCC–10, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notice of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Garrett, Office of Environment and Planning, HEP–42, (202) 366–9173, or Mr. Brett Gainer, Office of the Chief Counsel, HCC–32, (202) 366–1372, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Executive Order (E.O.) 11990, ''Protection of Wetlands,'' requires all Federal agencies to ''avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands'' (42 FR 26961, May 25, 1977). Specifically, this

order directs Federal agencies to avoid new construction in wetlands unless (1) there is no practicable alternative to such construction, and (2) the proposed action includes all practicable measures to minimize harm to wetlands resulting from such construction. The Department of Transportation subsequently issued DOT Order 5660.1A, Preservation of the Nation's Wetlands, which provided departmental policy and instruction for implementing E.O. 11990. Copies of these documents are available for inspection and copying pursuant to 49 CFR Part 7, App. D.

The provisions of E.O. 11990, the Clean Water Act (33 U.S.C 1344 *et seq.*), and the DOT Order proclaim that wetlands are a valuable national resource and that special efforts are required of all Federal agencies to preserve the beneficial values inherent in them. Wetlands are a valuable resource for a number of reasons. They provide habitats for numerous plants and animals, including many commercially important species. In addition, wetlands can reduce the severity of flooding, control erosion, and remove contaminants from polluted waters. Consequently, wetland preservation has become a matter of concern to Federal and State agencies charged with resource management responsibilities and has been emphasized by resource conservation groups.

Under E.O. 11990 each Federal agency must avoid, whenever practicable, impacts to wetlands. Therefore, a highway location or design which will impact a wetland must be evaluated for its natural functions and values, in addition to all relevant social, economic, and physical environmental values. Inevitably, there will be instances when reasoned and balanced judgments will result in the location of highways in wetlands and in the destruction or modification of those resources. In such cases, E.O. 11990 requires that ''all practicable measures to minimize harm to the wetland(s) be incorporated into the project.'' In addition, section 404 of the Clean Water Act, entitled Permits for Dredged or Fill Material, requires that a permit be obtained through the U. S. Army Corps of Engineers for proposed discharges of dredged or fill material into waters of the United States, including wetlands (33 CFR 320–330; (Regulatory Program)). The Regulatory Program and associated guidelines (40 CFR 230–233) require, among other things, assessment of the functions and values of wetlands to be impacted by proposed discharges of dredged or fill material as part of the Public Interest Review Process. Furthermore, permits issued by the Corps of Engineers under authority of the Regulatory Program may contain conditions requiring mitigation to compensate for impacts to wetlands that result in a loss of wetlands functions and values to society.

Another Federal statute applicable to Federal-aid highway projects involving impacts to wetlands is section 4(f) of the Department of Transportation Act [1] (49 U.S.C. 303 and 23 U.S.C. 138). Section 4(f) provides protection for certain environmentally significant, publicly owned land areas including parks, wildlife refuges, and waterfowl refuges. When such lands must be used for a federally-assisted highway project, section 4(f) requires all possible planning to minimize harm to the protected area. If wetlands included in these publicly owned 4(f) lands are used for or impacted by a highway project, current FHWA policy permits Federal-aid highway funds to be used in the acquisition, restoration, or creation of replacement wetlands or improvement of existing wetlands as mitigation. Federal participation must be based on a determination that such mitigation measures are necessary to meet the section 4(f) requirement that all possible planning and measures be undertaken to minimize harm. Federal assistance in these instances often involves the use of Federal-aid funds for activities outside the right-of-way. The FHWA regulations implementing section 4(f) are found at 23 CFR 771.135.

The FHWA has long recognized that the importance of wetland preservation is not limited to publicly owned wetlands. Privately owned wetlands are often an important component of local, State, and Federal wetland management programs. In addition, the requirements of E.O. 11990 and section 404 of the Clean Water Act apply to wetlands regardless of ownership. Consequently, the FHWA is required to find that proposed Federal-aid projects include all practicable measures to minimize harm to privately owned wetlands adversely impacted by the projects. The current part 777, which this NPRM proposes to amend, was promulgated to address these requirements.

Discussion of Proposed Rulemaking

Congress included provisions in the ISTEA granting the FHWA more flexibility to authorize the use of Federal-aid highway funds for mitigation of impacts to wetlands caused by federally-funded highway projects. These provisions are codified at 23 U.S.C. 103(i)(13) and 133(b)(11), and pertain to projects eligible for National Highway System (NHS) and Surface Transportation Program (STP) funds, respectively. Consequently, the FHWA is proposing to amend its regulations to authorize the expenditure of Federal-aid highway funds for mitigation of impacts to wetlands due to federally-funded highway projects.

Mitigation activities may include, but are not limited to, participation in wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands, and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (Pub. L. 101–640, 104 Stat. 4604). Contributions toward such efforts may take place concurrent with or in advance of project construction, but contributions may occur in advance of construction only if such mitigation efforts are consistent with all applicable requirements of Federal law and State planning processes.

Most significantly, measures found by a State highway agency and the FHWA to be appropriate and necessary to mitigate significant adverse impacts to publicly or privately owned wetlands would be eligible for Federal participation where the impacts actually result from an FHWA action. Appropriate mitigation measures could include the acquisition of additional land or interests in land for the purpose of mitigating adverse environmental impacts to wetlands which actually result from a Federal-aid highway project.

The justification for the cost of proposed mitigation measures should be considered in the same context as any other public expenditure; that is, the proposed mitigation would have to represent a reasonable public expenditure when weighed against other social, economic, and environmental values, and the benefit realized would have to be commensurate with the proposed expenditure. Decisions on mitigation measures would be required to take into account consideration of traffic needs, safety, durability, and economy of maintenance of the highway.

As previously mentioned, the proposed amendments to 23 CFR 777 formally express the FHWA's current

[1] Section 4(f) of Pub. L. 89–670, 80 Stat. 934, was repealed by Pub. L. 97–449, 96 Stat. 2444, and enacted without substantive change at 49 U.S.C. 303. Section 138 of title 23, U.S.C., remains unchanged. Because of common usage and familiarity, the term section 4(f) continues to be used by the Department of Transportation in matters relating to 49 U.S.C. 303 and 23 U.S.C. 138.

policy and incorporate the eligibility criteria set forth in the ISTEA with respect to mitigation of impacts to both publicly and privately owned wetlands which actually result from Federal-aid highway projects or an FHWA action. The explanation of Federal participation policy already included in § 777.5 is expanded in the proposed regulation. The proposed regulation would also include additional guidance and procedures to be followed in the evaluation (§ 777.7) and mitigation of impacts (§§ 777.9, 777.11).

The requirements of 23 CFR 777 apply to the mitigation of impacts to wetlands which actually result from federally-funded highway projects or programs. The requirements and policies stated therein do not apply to highways or other projects funded by other Federal, State, or private agencies or entities.

Section-By-Section Analysis

The following section discusses both the current provisions of 23 CFR 777 and the proposed changes to that regulation contained in this NPRM.

Section 777.1

Section 777.1 would be amended to expand the applicability of the regulation to Federal-aid participation in mitigation of all impacts to publicly or privately owned wetlands which actually result from Federal-aid highway projects. The existing regulation applies only to privately owned wetlands.

Section 777.2

Section 777.2 would be a new section. This section would contain definitions for administrative, scientific, and technical terms found in the amended regulation.

Section 777.3

Section 777.3, Background, would be amended to include discussion of the ISTEA provisions which increased the eligibility for Federal-aid participation of efforts to mitigate the wetlands impacts of highway projects funded under the provisions of the National Highway System (ISTEA § 1006 (23 U.S.C. 103)) and Surface Transportation Program (ISTEA § 1007 (23 U.S.C. 133)). As in the existing regulation, this section would also cite the authority and requirements of E.O. 11990 to minimize wetlands losses and DOT Order 5660.1A for implementing wetland mitigation in FHWA programs.

Section 777.5

The FHWA wetlands policy and practice, incorporating expanded scientific knowledge and management experience, have recognized that wetland mitigation includes a wider range of impacts, alternatives, and activities than were known or understood when the existing regulation was promulgated in 1980. The science and technology of wetland mitigation have identified methods and needs for effective wetland mitigation that were not well known at the time the existing regulation was issued. The amended § 777.5, Federal Participation Policy, would expand applicability of the regulation to include all impacts to wetlands which actually result from Federal-aid highway projects. The kinds of activities needed to mitigate wetland impacts include the general areas of planning, design, right-of-way acquisition, construction, and establishment. Specific tasks and activities which fall within these general areas are identified and included in the amended section as eligible for Federal-aid participation. Specific project criteria for Federal participation in wetlands mitigation activities are restated from the existing regulation, and are consistent with 23 CFR 771, Environmental Impacts and Related Procedures. The ''test of reasonableness'' in the existing regulation for the expenditure of public funds for wetlands mitigation is included in the NPRM. This test is based on commensurate social, economic, and environmental values and benefits of wetlands mitigation relative to costs of the mitigation and benefits of the highway project or program.

Section 777.7

Section 777.7, Evaluation of Impacts, currently provides that the extent of Federal participation in mitigation measures should be directly related to the importance and functional capacity of the impacted wetlands and the extent of wetland losses due to highway impacts.

In both the existing regulation and NPRM, Section 777.7 relates the cost of Federal-aid participation in wetland mitigation activities to the importance of the wetlands impacted in the project area. As amended, this section would refer to scientific functional assessment methodologies as the appropriate tool for evaluating wetlands resources and impacts, and would recognize the need for interdisciplinary, interagency coordination in evaluating wetlands functions and values. General functions of wetlands would be identified using current scientific terminology and concepts of wetlands analysis.

Section 777.9

Section 777.9, Mitigation of Impacts, identifies general categories of actions, taken to mitigate the impact of highway projects on wetlands, which are eligible for Federal-aid participation. Federal participation is not, however, limited to these activities, if other alternatives are practicable, more ecologically desirable, and represent a more effective expenditure of public funds. The existing § 777.9 states specific requirements for the protection of wetlands established as compensatory mitigation. Two criteria for Federal-aid participation in wetland mitigation are that the mitigation must represent a reasonable expenditure of public funds and be in the public interest.

In § 777.9(a) of the NPRM, the Environmental Protection Agency's Clean Water Act § 404(b)(1) guidelines (40 CFR 230) are referenced to establish the required sequence of alternatives that must be considered for mitigation of wetlands impacts. The 404(b)(1) guidelines require that, where practicable, avoidance and then minimization of wetland impacts be given first consideration. Under § 777.9(a)(2) of the NPRM, once practicable avoidance and minimization measures had been exhausted, the regulation would establish the objective of selecting ecologically desirable and practicable compensatory mitigation alternatives consistent with the 404(b)(1) guidelines. The requirement to consider compensatory mitigation within the highway right-of-way before other, possibly more ecologically desirable and reasonable alternatives outside of the right-of-way, would be removed by this NPRM. The existing § 777.9(b) contains the requirement that the public interest in wetlands restored, enhanced, or created as part of mitigation for wetlands impacts due to Federal-aid highway projects must be sufficient to ensure that they will be maintained as wetlands. This requirement would be moved to § 777.11(b). Section 777.9(a)(3) would be added, and would list examples of the specific kinds of activities eligible for Federal-aid participation when existing wetlands are being enhanced or restored.

A new § 777.9(b) would be added, and would cite and explain the specific mitigation alternatives listed in the ISTEA eligible for Federal-aid participation. The activities listed in the ISTEA are related to wetlands banking, planning, and resource inventory. These activities are not exclusive, and other activities listed in this regulation would also be eligible. This paragraph would

conform the regulation to ISTEA provisions allowing the use of Federal-aid highway funds to pay for costs of wetland mitigation activities as needed to mitigate impacts caused by Federal-aid highway projects and programs.

Section 777.11

Like any other activity in which Federal funds participate, the use of those funds is governed by various restrictions and conditions established by Federal law and agency policy in order to protect the public interest and provide for sound program management. A number of these considerations are set forth in § 777.11, Other Considerations, including consultation requirements and provisions for ownership and management of acquired lands. Depending upon the extent of mitigation justified under the provisions of § 777.7, § 777.11(f) currently permits Federal participation in the acquisition of replacement land for privately owned wetlands directly impacted by a Federal-aid highway project. Such privately owned lands thus acquired, above and beyond wetlands purchased for use as highway right-of-way, will thereafter be retained in public ownership and dedicated to future use as wetlands. The replacement ratio for wetlands directly affected by a Federal-aid highway project should be determined based on use of a scientific methodology of wetland functional assessment and best professional judgment, in combination with interagency coordination and considerations of fiscal responsibility and a desire to minimize adverse impacts on the local tax base of converting land from private to public ownership.

In both the existing regulation and the NPRM, § 777.11(a) emphasizes the need for consultation with appropriate State and Federal agencies concerning impacts to wetlands on Federal-aid highway projects. Section 777.11(b) of the NPRM, furthermore, would require that the public interest in all compensatory wetland mitigation projects, where wetlands have been purchased, enhanced, restored, or created with Federal-aid highway funds, be sufficient to ensure that the wetlands are permanently protected. This includes both private and public wetlands mitigation banks. The current § 777.11(b), which sets forth the definition of wetlands to be used in applying the regulation, would be moved to § 777.2, Definitions. Sections 777.11 (c) through (g) of both the existing regulation and the NPRM are intended to state the conditions and requirements for acquisition of interests in lands for purposes of mitigating wetlands impacts due to Federal-aid highway projects. For its part, § 777.11(g) would emphasize that the objective of wetlands mitigation in the Federal-aid highway program is to implement the policy of no-net-loss in area or functional capacity. To that end, this paragraph would declare eligible for Federal-aid participation certain activities intended to ensure the viability of compensatory mitigation wetlands during the period of establishment. These would include, but would not be limited to, such activities as repair or adjustment of water control structures, pest control, irrigation, fencing modifications, and replacement of plantings. The NPRM would encourage mitigation bank managers to determine the establishment period in the mitigation agreement itself prior to beginning any mitigation activities.

The NPRM would allow Federal-aid participation in the mitigation of impacts to both publicly or privately owned wetlands if such impacts actually resulted from Federal-aid highway projects. This proposal would not, however, require States to undertake mitigation efforts. Instead, part 777 would continue to provide policy and procedures for the evaluation and mitigation of adverse environmental impacts to wetlands which actually result from new construction of Federal-aid highway projects. Therefore, the FHWA believes the current § 777.11(h)—with its explicit statement that the program is not a mandatory one—is no longer necessary and the NPRM would delete this provision. Finally, § 777.11(i) of the existing regulation, which addresses mitigation of ecological impacts in non-wetlands, would be deleted. Since this NPRM would apply solely to wetlands issues, the FHWA has determined that the current § 777.11(i) would not be applicable to the policy set forth in this proposal. The FHWA has also determined that this paragraph is not consistent with 23 U.S.C. 133(b)(1), added by the ISTEA, which allows States to obligate STP funds to mitigate damage to wildlife, habitat, and ecosystems caused by a transportation project funded under title 23, United States Code.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures)

The FHWA has considered the impact of this document and has determined that it is neither a significant rulemaking action within the meaning of Executive Order 12866 nor a significant rulemaking under the regulatory policies and procedures of the Department of Transportation. This rulemaking would amend FHWA regulations regarding mitigation of impacts to privately owned wetlands, which have become outdated because of provisions in §§ 1006 and 1007 of the ISTEA authorizing greater flexibility for Federal participation in mitigating impacts to wetlands. These amendments have been codified at 23 U.S.C. 103 and 133.

This rulemaking would not cause any significant changes to the amount of funding available to the States under the STP or NHS programs or add to the process by which States receive funding. The provisions of this proposed rulemaking would not require the additional expenditure of Federal-aid or State highway funds. Thus, it is anticipated that the economic impact of this rulemaking would be minimal. In addition, it would not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs; nor will amendment of this regulation raise any novel legal or policy issues. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities and has determined that amendment of the FHWA regulations regarding mitigation of impacts to wetlands would not have a significant economic impact on a substantial number of small entities. Amending this regulation would not affect the amount of funding available to the States through the STP or NHS programs, or the procedures used to

select the States eligible to receive these funds. Furthermore, States are not included in the definition of ''small entity'' set forth in 5 U.S.C. 601. For these reasons, and for those set forth in the analysis of E.O. 12866, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not raise sufficient federalism implications to warrant the preparation of a federalism assessment. Amendment of this FHWA regulation concerning the mitigation of impacts to wetlands would not preempt any State law or State regulation. No additional costs or burdens would be imposed on the States as a result of this action, and the States' ability to discharge traditional State governmental functions would not be affected by this rulemaking.

Executive Order 12372

Catalog of Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not create a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA has analyzed this rulemaking for the purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347). This NPRM would not, in and of itself, constitute a major Federal action significantly affecting the quality of the human environment. Instead, it would increase the flexibility available to States when deciding how to mitigate impacts to wetlands caused by those Federal-aid highway projects they undertake. Such impacts and appropriate mitigation measures would be evaluated pursuant to NEPA on a project-by-project basis by the States and the FHWA. Accordingly, promulgation of this NPRM would not require the preparation of an environmental impact statement.

Regulatory Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 777

Flood plains, Grant programs—transportation, Highways and roads, Wetlands.

Issued on: June 4, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to revise part 777 of title 23, Code of Federal Regulations, as set forth below.

PART 777—MITIGATION OF IMPACTS TO PRIVATELY OWNED WETLANDS

1. Part 777 is revised to read as follows:

Sec.
777.1 Purpose.
777.2 Definitions.
777.3 Background.
777.5 Federal participation policy.
777.7 Evaluation of impacts.
777.9 Mitigation of impacts.
777.11 Other considerations.

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 303; 23 U.S.C. 101(a), 103, 109(h), 133(b)(1), 133(b)(11), 133(d)(2), 138, 315; E.O. 11990; DOT Order 5660.1A; 49 CFR 1.48(b).

§ 777.1 Purpose.

To provide policy and procedures for the evaluation and mitigation of adverse environmental impacts to wetlands which actually result from new construction of Federal-aid highway projects.

§ 777.2 Definitions.

In addition to those contained in 23 U.S.C. 101(a), the following definitions shall apply as used in this regulation:

Biogeochemical transformations. Those changes in chemical compounds and substances which naturally occur in ecosystems. Examples are the carbon, nitrogen, and phosphorus cycles in nature, in which these elements are incorporated from inorganic substances into organic matter and recycled on a continuing basis.

Compensatory mitigation. Activities such as wetland restoration, enhancement, or creation, performed to replace or compensate for the loss of wetlands functional capacity actually the result of Federal-aid highway construction projects. Compensatory mitigation usually occurs in advance of or concurrent with the impact to be mitigated, but may occur after such impacts in special circumstances.

Ecologically desirable. A state or condition desired or wanted as the result of a mitigation agreement that provides additional wetland functional capacity.

No-net-loss of wetlands. A wetland resource conservation and management principle, under which, over the long term, loss of wetlands area or functional capacity is offset by gains in wetland area or functional capacity due to wetland restoration, enhancement, preservation, or creation.

On-site, in-kind mitigation. Compensatory wetland mitigation which replaces wetlands functional capacity lost as a result of a highway project on the same site or in the immediate vicinity of the impacts.

Wetland or wetlands. The terms wetland and wetlands have the same meaning as the definition issued by the U. S. Army Corps of Engineers (33 CFR 328.3(b)) and the U.S. Environmental Protection Agency (40 CFR 230.3).

Wetlands banking and related measures. Efforts, or contributions to efforts, to restore, create, enhance, or, in exceptional circumstances, preserve wetlands functional capacity, usually undertaken outside the area of potential effect of proposed highway projects and intended expressly to compensate for unavoidable adverse wetlands impacts caused by such projects, when compensation could not be achieved or would not be as environmentally beneficial if located at individual project sites.

Wetland enhancement. Increasing wetland functional capacity by modifying the site conditions of an existing wetland. Examples include, but are not limited to, alteration of hydrologic regime, vegetation management, fencing, pest control, and fertilization.

Wetland establishment period. The period required to establish wetland functional capacity in a compensatory wetland mitigation project sufficient to compensate losses due to impacts of Federal-aid highway projects. The establishment period may vary depending on the specific wetland type being developed.

Wetland functional capacity. The ability of a wetland to perform natural functions, such as provide wildlife habitat, store surface water, or perform biogeochemical transformations, as determined by a scientific assessment methodology. Natural functions of wetlands include those listed by the

U.S. Army Corps of Engineers at 33 CFR 320.4(b)(2) (i) through (viii).

Wetland restoration. Reestablishment of wetlands functional capacity at a site at which such capacity formerly existed but has since essentially been eliminated.

Wetlands mitigation credit. A unit of wetlands mitigation, defined either by (1) area or (2) a measure of functional capacity through application of a scientific functional assessment methodology.

§ 777.3 Background.

Executive Order 11990, Protection of Wetlands, and DOT Order 5660.1A, Preservation of the Nation's Wetlands, emphasize the important functions and values inherent in the Nation's wetlands. Federal agencies are directed to avoid new construction in wetlands unless the head of the agency determines that: (1) There is no practicable alternative to such construction, and (2) the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. Sections 1006 and 1007 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914)(codified at §§ 103 and 133 of title 23, United States Code, respectively) identify additional approaches for mitigation and management of wetland impacts which actually result from highway projects as eligible for Federal participation.

§ 777.5 Federal participation.

(a) Those measures which the Federal Highway Administration (FHWA) and a State Highway Agency (SHA) find appropriate and necessary to mitigate adverse environmental impacts to wetlands are eligible for Federal participation where the impacts actually result from an FHWA action. The justification for the cost of proposed mitigation measures should be considered in the same context as any other public expenditure; that is, the proposed mitigation represents a reasonable public expenditure when weighed against other social, economic, and environmental values, and the benefit realized is commensurate with the proposed expenditure. Mitigation measures shall give like consideration to traffic needs, safety, durability, and economy of maintenance of the highway.

(b) It is FHWA policy to permit, consistent with the limits set forth in this part, the expenditure of Federal-aid highway funds for activities required for the planning, design, construction, and establishment of wetlands mitigation projects, and acquisition of land or interests therein.

§ 777.7 Evaluation of impacts.

(a) The reasonableness of the public expenditure should be directly related to:

(1) The importance of the impacted wetlands, as determined through a scientific functional assessment methodology and interagency coordination with the appropriate resource management agencies; and

(2) The highway impact on the wetlands, as determined through a scientific functional assessment methodology.

(b) Evaluation of the importance of the impacted wetlands should consider:

(1) The wetlands' functional capacity;

(2) The relative importance of these functions to the total wetland resource of the area; and

(3) Other factors such as uniqueness, esthetics, or cultural values.

(c) A determination of the highway impact should focus on the short- and long-term effects of the project on the wetlands' functional capacity.

§ 777.9 Mitigation of impacts.

(a) *Actions eligible for Federal funding.* There are a number of actions that can be taken to minimize the impact of highway projects on wetlands. The following actions qualify for Federal-aid highway funding:

(1) Where practicable, avoidance or minimization of wetland impacts through realignment and special design or construction features. In accordance with the Environmental Protection Agency's Clean Water Act Section 404(b)(1) guidelines (40 CFR 230 *et seq.*), avoidance and then minimization must be given first consideration in the sequence for mitigating wetlands impacts.

(2) After practicable avoidance and minimization measures have been exhausted, other ecologically desirable compensatory mitigation alternatives consistent with the Section 404(b)(1) guidelines, either inside or outside of the right-of-way. This may include on-site mitigation, when that alternative is determined to be ecologically desirable and practicable, improvement of existing degraded or historic wetlands through restoration or enhancement, or creation of new wetlands from non-wetland areas. Restoration or enhancement of wetlands is generally preferable to construction or creation of new wetlands from non-wetland areas. Under this approach, first consideration should be given to the development of compensatory mitigation on publicly owned lands.

(3) Improvements to existing wetlands. Such activities may include, but are not limited to, construction of water level control structures, establishment of wetland vegetation, recontouring of the site, installation or removal of irrigation or water distribution systems, pest control, installation of fencing and other measures to protect, enhance, or restore the wetland character of the site.

(4) Wetlands mitigation banking and related measures.

(b) *Participation in wetlands mitigation banks.* If the development or acquisition of wetland mitigation credits in wetland mitigation banks, either on or off-site, is determined to be the most ecologically desirable and practicable alternative for compensatory mitigation, the first alternative in mitigation bank use should be those established as publicly owned resources. These can be—

(1) Restored or enhanced wetlands on public lands;

(2) Single purpose publicly owned banks, established by and for the use of a highway agency with Federal-aid participation; or multipurpose publicly owned banks, established with public, non-Federal-aid funds, in which credits may be purchased by highway agencies using Federal-aid funds on a per-credit basis; or

(3) Other forms of mitigation banks in which credits are purchased by State highway agencies to mitigate wetlands impacts actually the result of Federal-aid highway projects.

(c) *Contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands.* Federal-aid funds may participate in the development of statewide and regional wetlands conservation plans, including any efforts and plans authorized pursuant to the Water Resources Development Act of 1990. Contributions to these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

§ 777.11 Other considerations.

(a) The development of measures proposed to mitigate wetlands impacts should include consultation with appropriate State and Federal agencies.

(b) Federal-aid funds may not participate in the replacement of wetlands absent sufficient assurances that the area will be maintained as a wetland.

(c) The acquisition of proprietary interests in replacement wetlands as a mitigation measure may be in fee simple

or by easement, as appropriate. The acquisition of ''mitigation credits'' in wetland mitigation banks should be accomplished through a legally recognized instrument, such as permanent easement or deed restriction, which provides for protection and permanent continuation of the wetland nature of the mitigation.

(d) A State Highway Agency (SHA) may acquire privately owned lands in cooperation with another public agency or third party. Such an arrangement may accomplish greater benefits than would otherwise be accomplished by the individual agency acting alone.

(e) An SHA may either transfer the title of lands acquired outside the right-of-way, without credit to Federal funds, to an appropriate public agency (e.g., U.S. Fish and Wildlife Service or State natural resource agency) or enter into an agreement with such agency to manage such lands. When such transfer occurs, there shall be an explicit agreement that the lands or interests therein transferred shall remain in the grantee agency's ownership or control so long as the lands continue to serve the purpose of the original acquisition. In the event the area transferred no longer serves the purpose of the original acquisition, the lands or interests therein transferred shall revert to the SHA for proper disposition.

(f) The reasonable costs of acquiring lands or interests therein to provide replacement lands with equivalent wetlands functional capacity are eligible for Federal participation.

(g) The objective in mitigating impacts to all wetlands in the Federal-aid highway program is to implement the policy of no-net-loss in area or functional capacity. Certain activities to ensure the viability of compensatory mitigation wetlands during the period of establishment are eligible for Federal-aid participation. These include, but are not limited to, such activities as repair or adjustment of water control structures, pest control, irrigation, fencing modifications, and replacement of plantings. The establishment period should be specifically determined by the mitigation agreement among the mitigation bank managers prior to beginning any mitigation activities.

[FR Doc. 96–15297 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 154

RIN 1076–AD41

Osage Roll; Certificate of Competency

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations on the Osage competency roll as required by the National Performance Review regulatory reform effort.

DATES: Comments must be received on or before August 16, 1996.

ADDRESSES: Mail or hand carry your comments to Terrance L. Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4513 MIB, Washington, DC 20240. Comments may be hand delivered from 9:00 a.m. to 4:00 p.m., Monday through Friday or sent by facsimile to Facsimile No. (202) 219–1065.

FOR FURTHER INFORMATION CONTACT: Alice Harwood, Acting Chief, Division of Real Estate Services, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4513 MIB, Washington, DC 20240, Telephone No. (202) 208–7737.

SUPPLEMENTARY INFORMATION: The proposed rule has been rewritten to facilitate its use by the general public and the individual Indians affected by the rule. Sections that no longer apply have been deleted and sections added for clarification. No substantive revisions are proposed in this rule.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9, and delegated to the Assistant Secretary-Indian Affairs by 209 DM 8.

Publication of the proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding the proposed rule to the location identified in the **ADDRESSES** section of this document.

This rule is not a major rule under Executive Order 12866 and will not require a review by the Office of Management and Budget.

The Department has determined that this rule:

- Does not have significant federalism effects.
- 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.*) because this rule applies only to Osage Indian applicants.
- Does not have significant takings implications under E.O. 12630.
- Does not have significant effects on the economy, nor will it result in increases in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographical regions.
- Does not have any adverse effects on competition, employment, investment, productivity, innovation, or the export/import market.
- Is categorically excluded from the National Environmental Policy Act of 1969 because it is of an administrative, technical, and procedural nature. Therefore, neither an environmental assessment nor an environmental impact statement is warranted.
- Does not impose any unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.
- Has been found to contain no information collection requirements under the Paperwork Reduction Act of 1995. By memorandum January 11, 1984, then Deputy Administrator for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), determined that information collections related to Indian land records and title documents did not require OMB clearance.

Drafting Information

The primary author of this document is Pearl Kennedy, Realty Specialist, Division of Real Estate Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4522 MIB, Washington, DC, 20240.

List of Subjects in 25 CFR Part 154

Indians, Indians—lands.

For the reasons given in the preamble, Part 154 of Title 25, Chapter I of the Code of Federal Regulations is proposed to be revised as set forth below.

PART 154—OSAGE ROLL, CERTIFICATE OF COMPETENCY

Sec.

Authority: 62 Stat. 18; 25 U.S.C. 331 note.

§ 154.1 What are the definitions of the terms used in this part?

Certificate of competency is a certificate issued by the Superintendent of the Osage Agency declaring a certain Osage Indian to be competent to handle his or her allotted or inherited Osage Indian lands or Osage headright interest(s).

Commissioner includes the Deputy Commissioner of Indian Affairs or authorized representative acting under delegated authority.

Person means an unallotted member of the Osage Tribe of Oklahoma of less than one-half Osage Indian blood who has not received a certificate of competency.

Secretary means the Secretary of the Interior or authorized representative acting under delegated authority.

Superintendent means the Superintendent of the Osage Agency, Bureau of Indian Affairs, Department of the Interior.

§ 154.2 Why do I need a certificate of competency?

If you do not wish to be under the supervision of the Bureau of Indian Affairs and feel that you are competent to handle your own allotted or inherited Osage Indian lands or Osage headright interests, you may apply for a certificate of competency which will remove the restrictions from your land as well as make any income deriving from your Osage headright interests fully taxable by both Federal and State. In addition, a certificate of competency will make any Osage lands or headright subject to creditors' claims.

§ 154.3 How do I apply for a certificate of competency?

You must complete and file with the agency superintendent a written application in the form approved by the Secretary.

§ 154.4 How do I qualify for a certificate of competency?

You must be at least 21 years old and be determined by the Osage Agency Superintendent to be competent to handle your own land and financial affairs.

§ 154.5 What is a competency eligibility roll?

It is a listing, prepared for the Osage Agency Superintendent, of persons 21 years or older who have not received a certificate of competency. It contains the following information for each individual:

(a) Name;
(b) Last known address;
(c) Date of birth; and
(d) Total quantity of Osage Indian blood of each person listed.

§ 154.6 How is age determined?

The date of birth as shown on a standard or delayed birth certificate or census records maintained by the Osage Indian Agency is accepted as prima facie evidence in determining the age of a person.

§ 154.7 Who pays for the recording of certificates of competency?

The Superintendent may disburse IIM funds of the persons to whom a certificate of competency is issued in order to provide for the direct payment of costs of recording the certificate of competency into the official land records of the Osage County Clerk.

§ 154.8 When will I get delivery of my funds, if any?

After a certificate of competency is issued and recorded, the Superintendent will deliver to the individual or legal guardian named, the original copy of the certificate and a check for all funds on deposit in the IIM account of the individual at the Osage Indian Agency. At the request of the Superintendent, you will be required to sign a receipt.

Dated: May 31, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–14641 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–02–M

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25 CFR Part 162

RIN 1076–AA29

Leasing and Permitting

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This rulemaking action will revise the leasing and permitting regulations in 25 CFR Part 162, and incorporate the general grazing permit regulations now found in 25 CFR Part 166. The rule will also implement the relevant provisions in a number of statutes of general application, including the American Indian Agricultural Resource Management Act (AIARMA). Finally, the rule will implement many policy decisions, legal opinions, and administrative actions which have been issued or implemented by the Bureau of Indian Affairs (BIA) since the last publication of these regulations in the 1960's.

DATE: Comments must be submitted on or before October 15, 1996.

ADDRESSES: Mail comments to: Mark Bradford, Bureau of Indian Affairs, Division of Land and Water, 1849 C Street, N.W., Mail Stop 4559 MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Stan Webb, Branch of Real Estate Services, Phoenix Area Office, Bureau of Indian Affairs, at 602–379–6781, or Virgil Dupuis, Lands Division, Confederated Salish and Kootenai Tribes of the Flathead Nation, at 406–675–2700.

SUPPLEMENTARY INFORMATION: Section 301 of the AIARMA requires that the act be implemented through the promulgation of final regulations within 24 months, and that such regulations be ''developed by the Secretary with the participation of the affected Indian tribes.'' Four work groups (including a leasing and permitting group) were established by a steering committee, with the work groups and the steering committee each being comprised of BIA and tribal representatives. The work groups met in March 1994, and a first set of draft regulations was distributed for comment to some 3000 addressees on April 29, 1994. The first draft did not provide for a consolidation of the permitting provisions in 25 CFR Parts 162 and 166, although such a consolidation had been planned by the BIA since 1988; it did, however, include a number of proposed revisions (unrelated to the AIARMA) intended to address questions raised during the past 25 years by other statutory enactments and various administrative actions and judicial decisions.

After five formal hearings were conducted throughout the nation, a second mailing was distributed for comment on June 28, 1994. The second mailing included a cross-references summary sheet which indicated how most of the permitting provisions in the existing 25 CFR Part 166 would be incorporated in Subpart D of the proposed 25 CFR Part 162, but it did not include the text of the proposed Subpart D. The text of a revised Subpart D—and all of the other proposed regulations drafted to implement the AIARMA—were distributed for a final round of comments on November 30, 1994. The leasing and permitting work group met in September 1994 and March 1995, respectively, to review the written comments and public testimony received in response to the mass mailings.

The Statutory Framework

Early Statutes—Tribal Land

Under the trade and intercourse acts which are codified at 25 U.S.C. 177, valid leases of tribal land may be made only with specific statutory authorization. The first general leasing statute for Indian land was enacted on February 28, 1891 (26 Stat. 795, 25 U.S.C. 397), and a proviso in that act authorized tribal councils to lease tribal ''purchased'' land (on treaty reservations) for grazing purposes, for up to five years. These tribal leases, unlike the leases of allotments authorized by the same statute, were expressly made subject to approval by we of the Interior. A proviso in an August 15, 1894, appropriations act (28 Stat. 305) authorized tribal councils to lease any unallotted ''surplus'' land for farming purposes, for up to five years. By act dated July 3, 1926 (44 Stat. 894, 25 U.S.C. 402a), leases of irrigable tribal land were authorized for up to ten years, ''with the consent of the tribal council, business committee, or other authorized body.'' By Section 17 of the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 988, 25 U.S.C. 477), tribes which did not vote to reject the IRA were authorized to adopt corporate charters (to be ''issued'' by us). Among other things, these charters initially allowed tribes to grant leases for up to ten years, without further secretarial approval. Section 17 of the IRA was amended on May 24, 1990 (104 Stat. 207), to eliminate the need for a special tribal election to support a proposed corporate charter, and to allow tribes which rejected the IRA to nonetheless adopt a charter pursuant to Section 17. The amendment also authorized 25-year leases of tribal land without secretarial approval, where such leases are authorized by a secretarially-issued charter. The legislative history of the amendment does not reveal why corporate leases were limited to 25 years, when longer terms would have been consistent with the long-term leasing statutes enacted between 1934 and 1990.

Early Statutes—Allotted Land

Leases and other dispositions of allotted land are generally prohibited by the treaties and statutes which authorized the allotments and established the periods during which the land would be held in trust or restricted status. These prohibitions were modified by a series of statutes which authorized the leasing of allotments, subject to various limitations as to the lease purpose, maximum lease term, the leasing authority of the individual Indian landowners, and our approval power. The Act of February 28, 1891, authorized an allottee who could not personally occupy and improve his land—''by reason of age or other disability''—to lease the allotment for farming and grazing purposes. The statute limited the maximum term of the authorized leases to three years, and the legislative history dictated that applications to lease be made directly to us (rather than to the ''agent in charge of any reservation'').

In its August 15, 1894, appropriations act, Congress lessened the 1891 act's restrictions by authorizing farming and grazing leases by any allottee with an ''inability'' to personally occupy and improve his land. In this statute, Congress also extended the maximum term of farming and grazing leases to five years, and authorized leases of up to ten years for business purposes. In appropriations acts from 1897 and 1900, however, Congress vacillated in defining the restrictions to be imposed on the owners of allotted land. In the 1897 act (30 Stat. 85), the ''inability'' provision was dropped, and the maximum terms for farming/grazing and business leases were reduced to three and five years, respectively. Then, in the 1900 act (31 Stat. 229, 25 U.S.C. 395), the ''inability'' provision was restored, and five-year farming leases were re-authorized.

A more expansive leasing statute was enacted on June 25, 1910 (36 Stat. 856, 25 U.S.C. 403), authorizing five-year leases of allotments held under trust patents, without regard to the purpose of the lease or the Indian landowner's age, ''disability,'' or ''inability.'' This act also provided that lease ''proceeds'' could be paid directly to the allottee or his/her heirs, or expended for their benefit by us. Congress attempted to both expand and limit its leasing policy in the Act of May 18, 1916 (39 Stat. 128, 25 U.S.C. 394), which authorized leases of irrigable allotted land for up to ten years, but made such leases subject to the ''age or other disability'' restrictions set forth in the Act of February 28, 1891. By statute enacted on March 3, 1921 (41 Stat. 1232, 25 U.S.C. 393), allottees and their heirs were authorized to grant farming and grazing leases of ''restricted'' allotments (which were not covered by trust patents, and thus fell outside the scope of the 1910 act). (In earlier statutes, the leasing authority of the heirs of allottees had been left to inference.) Leases granted under the 1921 act were expressly made subject to ''the approval of the superintendent or other officer in charge of the reservation where the land is located.'' A September 21, 1922, statute (42 Stat. 995, 25 U.S.C. 392) subsequently authorized us to approve leases of allotments wherever the patents covering such allotments prohibited any type of alienation without the consent of the President.

When the IRA was enacted in 1934, its purposes included the prohibition of the further allotment of Indian reservations and the curtailment of the future alienation of allotted land. Although none of the provisions in the final version of the IRA specifically addressed the leasing or permitting of allotments, Section 6 (48 Stat. 986, 25 U.S.C. 466) directed us to make rules ''to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity * * *, to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.''

A statute was enacted on July 8, 1940 (54 Stat. 745, 25 U.S.C. 380), to address questions which had arisen about our authority to approve leases that had not been executed by all of the individual Indian owners. This act expressly authorized us to grant leases of heirship land (owned by the heirs or devisees of the original allottee) under specific circumstances. The act provided, in its entirety, as follows:

> [R]estricted allotments of deceased Indians may be leased, except for oil and gas mining purposes, by the superintendent of the reservation within which the lands are located (1) when the heirs or devisees of such decedents have not been determined and (2) when the heirs or devisees of the decedents have been determined, and such lands are not in use by any of the heirs and the heirs have not been able during a three-months' period to agree upon a lease by reason of the number of the heirs, their absence from the reservation, or for other cause, under such rules and regulations as the Secretary of the Interior may prescribe. The proceeds derived from such leases will be credited to the estates or other accounts of the individuals entitled thereto in accordance with their respective interests.

The 3 month negotiation period required by the 1940 act is now subject to modification by tribes, insofar as agricultural leases are concerned, through the enactment of the American Indian Agricultural Resource Management Act on December 3, 1993. The provisions of this act are described in some detail below.

The Long-Term Leasing Act

Before 1955, leases for more than five years were generally prohibited on both tribal and individually-owned land; 10 year leases were authorized only where irrigable land was involved, or where the leases were made pursuant to a

tribal corporate charter or a reservation-specific statute. Section 1 of the Act of August 9, 1955 (69 Stat. 539, 25 U.S.C. 415), authorized long-term leases of both tribal and individually-owned land, but Section 6 (25 U.S.C. 415d) expressly provided that previously-enacted statutes would not be repealed. Specifically, ten-year leases were authorized for grazing purposes, and 25-year leases were authorized ''for public, religious, educational, recreational, residential, or business purposes, * * * and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops.'' Single renewal periods of up to 25 years were authorized in leases made for purposes other than farming or grazing.

Section 1 of the 1955 act authorized leases by the Indian landowners, subject to the approval of the Secretary, and Section 2 (25 U.S.C. 415a) confirmed that long-term leases of heirship land could be granted by the Secretary pursuant to the Act of July 8, 1940. Section 2 also provided that if this grant authority was delegated by the Secretary, any ''heirs and devisees'' whose interests were leased under such authority would have a right to appeal. Section 4 (25 U.S.C. 415b) generally prohibited the payment of rentals more than one year in advance of the rental period, and Section 5 (25 U.S.C. 415c) absolutely prohibited lease provisions which would prevent or delay a termination of federal trust responsibilities during the lease term.

The legislative history of the 1955 act indicates that it was intended to facilitate the long-term financing of development on Indian land, and to thereby increase the rental income payable to Indian landowners. The House Report reflects that Section 4 was intended to serve the termination-era ''objective of removing restrictions from Indian lands as rapidly as the Indian owners become able to handle their own affairs without assistance from the Federal Government.'' The House Report also indicates that a statutory provision which would have mandated rental adjustment clauses in long-term leases (''to insure adjustments * * * reflecting appreciation or depreciation of real and personal property values'') was deleted in favor of a committee recommendation to that effect. Specifically, the House Committee on Interior and Insular Affairs recommended that adjustment provisions be included in leases wherever ''applicable and appropriate,'' and that decisions not to include such provisions be documented on a case-by-case basis. Finally, the Conference Report indicates that the ten-year maximum term for grazing leases was established in the belief it would provide adequate security for private loans to livestock operators.

To date, the 1955 act has been amended numerous times, and 99-year leasing authority now exists on several reservations. A June 2, 1970, amendment (84 Stat. 303) added the following sentence at the end of Section 1 of the 1955 act:

> Prior to approval of any lease or extension of an existing lease * * *, the Secretary of the Interior will first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forums for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

Miscellaneous Statutes—The American Indian Agricultural Resource Management Act

The AIARMA was enacted on December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 et seq.), and amended on November 2, 1994 (108 Stat. 4572). Section 102(a) of the AIARMA requires that all ''land management activities''—defined in Section 4(12)(D) to include the ''administration and supervision of agricultural leasing and permitting activities, including a determination of proper land use, * * * appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts''—conform to agricultural resource management plans, integrated resource management plans, and all tribal laws and ordinances. Section 102(b) requires that we recognize and enforce all tribal laws and ordinances which regulate land use or pertain to Indian agricultural land, and provide notice of such laws and ordinances to individuals or groups ''undertaking activities'' on any affected land. Section 102(c) authorizes—but does not require—waivers of federal regulations or administrative policies which conflict with an agricultural resource management plan or a tribal law. It should be noted, however, that Sections 102(a)–(c) expressly provide for the recognition of only those tribal enactments which are not contrary to federal law or our trust responsibility.

Section 105 of the AIARMA confirms and expands the existing leasing and permitting authority of both us and Indian landowners, and it also limits the authority of tribes to regulate such activities under Section 102. First, Section 105(a)(1) extends the existing 25-year authority for farming leases requiring a ''substantial investment'' to grazing leases that meet the same requirement. Second, Section 105(a)(2) confirms existing authority to grant or approve a lease or permit at less than the appraised rental value of the land, when the land has been advertised and it has been determined that the lease or permit would serve the best interests of the Indian landowners. Third, Section 105(b)(5) of the *amended* AIARMA confirms that tribes may determine the rentals to be paid under agricultural leases and permits of tribal land. Fourth, the negotiation rights of the owners of heirship land are expanded by Section 105(c)(2), which authorizes the owners of a ''majority interest'' to grant an agricultural lease or permit which will bind the remaining owners (so long as the minority owners receive ''fair market value'' for their interests). Finally, while Sections 105(b)(1)–(4) confirm the newly-recognized authority of tribes to supersede federal rules and regulations on preferences, bonding, and the leasing or permitting of heirship land, Section 105(c)(3) allows individual landowners to exempt their land from these *specific* types of tribal actions where the owners of at least a 50 percent interest in such land object in writing.

Although renewals of farming and grazing leases and permits were not previously authorized by statute, Section 105(b)(1) of the AIARMA implicitly authorizes such renewals, at least on land under the jurisdiction of a tribe which has established preferences for individual Indian lessees and permittees. Moreover, the three-month negotiation period required by the Act of July 8, 1940, has been expressly made subject to modification by tribes under Section 105(b)(4), insofar as ''highly fractionated'' heirship land is concerned; the three-month period may only be modified, however, where a tribe defines ''highly fractionated'' and establishes an alternative plan for providing the individual Indian owners of heirship land with notice of our intent to lease their land pursuant to the 1940 act. In an apparent reference to the newly-recognized authority of tribes to establish alternative notice/negotiation periods, Section 105(c)(1) originally confirmed the rights of individual ''allottees'' to use their own property and negotiate their own leases and permits. (By contrast, the 1940 act allowed the ''heirs and devisees'' of

allottees to prevent us from exercising our broad grant authority on heirship land, by putting the land to direct use or by entering into a lease or permit during a three-month negotiation period.) Section 105(c)(1) was subsequently amended to clarify that nothing in the AIARMA should be construed as ''limiting or altering'' the use and negotiation rights of *either* an ''allottee'' or a tribe, but the amendment failed to address the question of whether the ''heirs and devisees'' of allottees (or individual Indian landowners who acquired their interests by deed) may exercise ''owner's use'' rights under the 1940 act.

Interpretation and Implementation

Audits and Opinions

Since 1984, the Department of the Interior's Office of Inspector General (OIG) has completed audit reports on: (1) Agricultural leasing and permitting activities in Montana, South Dakota, and North Dakota; (2) conservation problems on leased property within the Crow Indian Reservation in Montana; and (3) the administration of commercial leases on the Agua Caliente Indian Reservation in California. In the latter report (from 1992), the OIG expressed concern about whether lessees should benefit from favorable or subsidized lease rentals by entering into ''sandwich'' leases which allow them to retain all or part of the differential between market (sublease) and contract (lease) rents. While the Agua Caliente audit report criticized existing regulations as providing ''insufficient guidance for commercial leasing activities,'' it also asserted that such regulations now make us responsible for ensuring that: (1) All lease rentals (including percentage rentals and interest on delinquencies) are paid; (2) adequate security for such payments is maintained throughout the lease term; (3) negotiated leases provide for a fair rental throughout the lease term, without fixed (or capped) rental adjustments; and (4) all leases *and* subleases are recorded in accordance with 25 CFR 150.

In three audit reports from 1984—1986, the OIG reviewed the agricultural leasing and permitting activities on six reservations in North and South Dakota. In two reports pertaining to the Fort Berthold Reservation, the OIG criticized the BIA's failure to: (1) Identify unleased agricultural land and advertise such land for lease or permit; (2) advertise land on which leases or permits will be expiring, where the landowners have not granted a new lease or permit (to the existing lessee/permittee or anyone else) within a three-month period; (3) issue timely notices of delinquent rentals; (4) require a minimum cash rental where cropshare rentals are authorized; and (5) monitor and document crop production where cropshare rentals are to be paid. In a 1986 report pertaining to five other reservations in North and South Dakota, the OIG reiterated most of the Fort Berthold criticisms, and also recommended that: (1) Minimum grazing rentals be set at a higher rate, with adjustments to off-reservation market data based on such ''factors'' as seasonal limitations, tribal taxes, interest on rental ''advances,'' administrative fees, and bonding requirements; (2) the ''brokering'' of unauthorized ''subleases'' on allocated range units be monitored, so that minimum grazing rentals are paid for all livestock owned by non-Indians; (3) the grazing rentals for the various tracts within a range unit reflect any differences in the production capabilities of such tracts; and (4) stocking rates be continuously reviewed and adjusted as range conditions warrant.

In four audit reports from 1985—1988, the OIG reviewed selected leasing and permitting activities on three reservations in Montana (as well as the Turtle Mountain Chippewa allotments in eastern Montana), focusing primarily on trespass, conservation, and income collection issues. Two of these reports also reiterated the above-referenced concerns about unleased land, expiring leases, and delinquent rentals. Two of the reports dealt solely with conservation issues on the Crow Indian Reservation, with specific reference to (unapproved) leases granted by competent Indian landowners pursuant to the amended Crow allotment act. Based on its review of the legislative history—and its view of our continuing trust responsibility to the allotments in question—the OIG recommended that the BIA clarify its responsibility and authority over land under leases granted by competent Indian landowners, by legislation if necessary.

National Environmental Policy Act

§ 162.16(c)(1) provides that the lessee must comply with the National Environmental Policy Act (42 U.S.C. 4371 et seq.). The courts have held in *Davis* v. *Morton*, 469 F.2d 593 (10th Cir. 1972), that the National Environmental Policy Act applies to the Bureau of Indian Affairs approval of leases of trust land.

List of Subjects in 25 CFR Part 162

Agriculture and agricultural products; Grazing lands; Indian-lands.

For the reasons set out in the preamble, we propose to revise Part 162 of Title 25 of the Code of Federal Regulations, as follows:

PART 162—LEASING AND PERMITTING

Subpart A—General Provisions

Sec.

Subpart B—Administrative Provisions

Subpart C—General Requirements

Subpart D—Special Provisions for Grazing Permits

Authority: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, sec. 55, 49 Stat. 781, sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 60 Stat. 962, sec. 5, 64 Stat. 46, secs. 1, 2, 4, 5, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968; 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 413, 415, 415a, 415b, 415c, 415d, 477, 635. 25 U.S.C. 3701, 3702, 3703, 3715, 107 Stat. 2018, 108 Stat. 4572.

Subpart A—General Provisions

§ 162.1 Definitions.

Adult means an individual Indian who is 18 years or older.

Agricultural land means farmland, rangeland, or other land which is used in conjunction with farmland or rangeland.

Agricultural lease or permit means a lease or permit or permit for farming and/or grazing purposes.

Allocation means the apportionment of grazing units to tribal members or tribal entities, including the tribal designation of permittees and the number and kind of livestock to be grazed.

Conservation plan means a statement of management objectives for an agricultural lessee or permittee, including contract stipulations defining required uses, operations, and improvements. A *conservation plan* may be prepared or adopted by us, and will be reviewable on an annual basis.

Fair annual rental means consideration for a lease or permit which provides a reasonable return on land value, as may be determined by an appraisal of comparable properties, advertisement and/or competitive bidding, or a negotiated percentage of the income to be derived from the land. *Fair annual rental* will reflect the highest and best use of the land, consistent with applicable law, and will take into account the costs associated with the proposed use and the reversionary value of any improvements to be made by the lessee or permittee.

Farmland means land which is used for the development of crops, pasture, or other agricultural products grown or harvested for personal consumption or for commercial purposes.

Government land means the surface estate of a tract of land, or any interest therein, which is owned by the United States and administered by the Bureau of Indian Affairs, not including tribal land which has been reserved for the Bureau's administrative purposes but is not immediately needed for such purposes.

Grazing permit means a permit of specified duration, granting the permittee a privilege to use tribal, individually-owned, and/or Government land for grazing purposes. Unless otherwise provided by agreement, a *grazing permit* will be assignable by the permittee, with the consent of the owners and our approval, and may only be canceled or revoked by us pursuant to §§ 162.18 and 162.46 of this part, respectively.

Grazing unit means one or more tracts which have been designated for grazing purposes, pursuant to § 162.40.

Heirship land means the surface estate of a tract of land having two or more owners, in which any interest is owned by an individual Indian in trust or restricted status. Any such interest will be characterized as individually-owned land, while the entire tract will be considered to be *heirship land.* Other interests in a tract of *heirship land* may be owned by Indian or non-Indian individuals or entities, in unrestricted status, or by tribes, in trust or restricted status.

Individual Indian means any person for whom the United States holds title in trust status, or who holds title subject to federal restrictions against alienation or encumbrance.

Individually-owned land means the surface estate of a tract of land, or any interest therein, which is held by the United States in trust for an individual Indian, or a tract of land, or any interest therein, which is owned by an individual Indian subject to federal restrictions against alienation or encumbrance.

Interest means an undivided fractional share in the ownership of heirship land.

Lease means a grant to a lessee of a right to possession of tribal and/or individually-owned land, for a specified purpose and duration.

Majority interest means an aggregate of tribal and individually-owned interests totaling more than 50 percent of the total ownership in heirship land.

Owner means the tribe or individual Indian holding beneficial or restricted title to tribal or individually-owned land.

Permit means a grant to a permittee of a privilege to enter on and use tribal, individually-owned, and/or Government land for a specified purpose.

Rangeland means land on which the native vegetation is predominantly grasses, forbs, or shrubs suitable for grazing.

Secretary means the Secretary of the Interior or his authorized representative, acting pursuant to delegated authority.

Tract means a distinct parcel of Government or heirship land, or a distinct parcel of tribal or individually-owned land in which the full beneficial or restricted title is held by or on behalf of a single tribe or individual Indian owner. A *tract* may be leased or permitted either in all or in part, or it may be incorporated in a unit for leasing or permitting purposes.

Tribal corporation means a corporation chartered by us under Section 17 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 25 U.S.C. 477).

Tribal land means a tract of land, or any interest therein, which is held by the United States in trust for a tribe or tribal corporation, or a tract of land, or any interest therein, which is owned by a tribe subject to federal restrictions against alienation or encumbrance.

Tribal law means an ordinance or other enactment by a tribe, which applies to leasing and permitting activities on tribal land and/or individually-owned agricultural land and is applicable under § 162.4.

Tribe means any Indian tribe, band, nation, or other organized Indian group or community, including any Alaskan Native village, which is recognized by us as having special rights and responsibilities, and as being eligible for the services provided by the United States to Indians because of their status as Indians.

Unit means two or more tracts which have been combined for leasing or permitting purposes, pursuant to § 162.10 of this part.

We means the Secretary of the Interior or a Federal official with delegated authority.

§ 162.2 Objectives.

(a) We will prepare and administer leases and permits in accordance with tribal laws which are not contrary to Federal law or our trust responsibility to protect the resources of individual

Indian owners. That means we will manage tribal and individually owned agricultural land in a manner which is consistent with recognized principles of sustained yield management, integrated resource management planning, sound conservation practices, and other community goals as expressed in tribal laws.

(b) We will assist owners in the granting of leases and permits through negotiation, advertisement, or allocation. We will also recognize the rights of owners to use their own land, if the other owners receive a fair annual rental for this use and the long term value of the land is preserved.

(c) We will ensure that lessees and permittees comply with the terms of their leases and permits, through cancellation or other action necessary to protect the interest of the owners. If the effective use of the land requires, we may grant leases and permits on behalf of the owners and obtain a fair annual rental.

§ 162.3 Scope.

(a) The regulations in this part prescribe the procedures, terms, and conditions under which non-mineral leases and permits covering tribal, individually owned, and government land may be granted, approved, and administered. The regulations in subparts A through C of this part apply to all leases and permits, except as otherwise indicated, and the regulations in subpart D also apply to grazing permits. Mineral leases and permits will be subject to the regulations in subchapter I of this chapter.

(b) The regulations in subpart E prescribe certain procedures, terms, and conditions which apply to leasing and permitting activities on specific reservations. The provisions in subparts A through D will also apply on these reservations, unless superseded by subpart E.

(c) The regulations in this part will not apply if a lease or permit is granted by an owner without our approval being required. Such leases and permits must be recorded according to part 150 of this chapter.

§ 162.4 Tribal laws.

(a) Tribal laws may apply to tribal land and individually owned agricultural land under the jurisdiction of the enacting tribe. To be applicable, the law must apply equally to all land under the jurisdiction of the tribe.

(b) Tribes must notify us of the content, record of public notices and hearings, and effective date of new tribal laws. If the new tribal law applies to individually owned agricultural land, we will notify the affected owners. Either actual or constructive notice may be provided, depending on whether the tribe afforded any notice and hearing rights to the owners before enactment. Actual notice is required if the tribal law is of the type described in paragraphs (c) (1) through (3) of this section.

(c) A tribal law may supersede the regulations in this part, except when the law conflicts with a Federal statute or with the objectives in § 162.2. Also, owners of individually-owned land or the owners of at least a 50 percent interest in heirship land may exempt their land from a tribal law if it:

(1) Provides a preference for Indians or tribal members in issuing or renewing agricultural leases or permits;

(2) Establishes specific security requirements for agricultural leases or permits, or waives our security requirements; or

(3) Defines ''highly fractionated'' heirship land and establishes a plan to provide the owners with notice of our intent to grant an agricultural lease or permit under § 162.13(b).

(d) The owners of a tract of individually owned or 50 percent interest in heirship land may exempt their land from a tribal law by submitting a written statement or petition to us. We will notify the tribe of your request. The same procedure applies to changing your request for exemption.

§ 162.5 Information collection.

The information collection requirements contained in this part do not require the review and approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Subpart B—Administrative Provisions

§ 162.10 How are leasing and permitting units created?

We may establish a unit if it is consistent with prudent management or efficient administration of tribal, individually owned, or Government land. If the value of each tract is not identified in a lease or permit, the value of each tract will be proportionate to its acreage within the unit.

§ 162.11 How are leasing and permitting units advertised?

(a) If necessary to establish a fair annual rental, we will advertise a tract of individually owned or heirship land before granting or approving a lease or permit. Advertisements will require sealed bids, and may also provide for competitive bidding among the potential lessees.

(b) Advertisements will provide potential lessees with notice of the applicable tribal laws, and the basic terms and conditions of the lease or permit. Advertisements will state if there is preference for Indians or members of the tribe that has jurisdiction over the land.

§ 162.12 Can landowners grant leases or permits?

(a) We will approve a lease or non grazing permit of individually owned land negotiated and granted by:

(1) Adult owners, except those under a legal disability;

(2) Parents and other persons standing in loco parentis to minor children owners; and

(3) Guardians, conservators, and other fiduciaries appointed by courts of competent jurisdiction to act on behalf of individual Indian owners.

(b) We will approve leases or permits of tribal land negotiated and granted by tribes and tribal corporations. If allowed by its charter, a tribal corporation may grant a lease or permit for up to 25 years, including any option period, without our approval. If tribal land assigned to a tribal member under tribal law or custom which authorizes further leasing and permitting, the assignee and tribe may jointly grant a lease or permit with our approval.

(c) We will approve agricultural leases or permits granted by owners of a majority interest in heirship land to owners of a minority interest. The lease or permit must provide a fair annual rental to the other owners who do not grant the lease or permit.

§ 162.13 When do we issue leases or permits?

(a) We may grant leases or non grazing permits, or join in agreements which have been negotiated by other owners under § 162.12(a), on behalf of the following owners of individually owned land:

(1) Adults who are legally disabled;

(2) Orphaned minors;

(3) The undetermined heirs or devisees of individual Indian decedents;

(4) Individual Indians who have given us written authority to act on their behalf; and

(5) Individual Indians whose whereabouts are unknown.

(b) We may grant a lease or permit covering all tribal and individually owned interests in heirship land, if a lease or permit cannot be granted for each interest under paragraph (a) of this section and/or § 162.12.

(c) When a tribal law applies, we may only grant a lease or permit after providing the tribal and individual

Indian owners with written notice, and allowing owners 3 months to grant a lease or permit pursuant to § 162.12. We may grant a non-grazing permit covering all trust and restricted interests in a tract of heirship land if it is impractical to provide notice to the owners and no substantial injury to the land would occur. If we grant a lease or permit for 10 years or more, we will notify the owners of their right to appeal under part 2 of this chapter.

(d) We will grant permits for Government land.

§ 162.14 What land is exempt from leasing and permitting?

(a) The parent, guardian, or other person standing in loco parentis to minor children may use a tract of individually owned or heirship land without charge, if the minor children are the only owners and will directly benefit from the use. This use may continue until one of the owners becomes an adult.

(1) In that event a lease or permit must be obtained for the use to continue.

(2) The user must provide evidence of a direct benefit to the minor children, or we will proceed to lease or permit.

(b) We will not grant a lease or permit pursuant to §§ 162.13(b) or 162.42(b), if the land is used by an individual Indian owner and the other owners are receiving a fair annual rental. An individual Indian owner who is personally using heirship land must notify us of the use and provide evidence of an accounting to the other owners before the end of the applicable notice period.

§ 162.15 What administrative fees are required?

(a) We will collect an administrative fee before we approve any lease, permit, sublease, assignment, encumbrance, modification, or other related document. The fee will be based on the annual rental payable by the lessee or permittee, calculated as follows: 3 percent of the first $500, 2 percent of the next $4500, and 1 percent of all rentals exceeding $5000. Grazing permittees will also pay an annual administrative fee for the duration of their permits, at the same rates. In no event will an administrative fee be less than $2, nor exceed $250.

(b) For leases or permits with percentage rentals, we will collect an administrative fee based on the minimum annual rental or an estimated percentage rental. For crop share rental or another type of special consideration is authorized by a lease or permit, we will establish a cash rental value. We will collect an administrative fee based on the cash rental value.

(c) If a tribe performs all or part of the administrative duties, the tribe may establish an alternate fee schedule. We must approve the alternative schedule if any of the fees collected will not be deposited in the U.S. Treasury.

(d) If less than fair annual rental is payable under a lease or permit, or if a document is being processed primarily for the benefit of the owners, we will waive collection of the administrative fee. No refund of previously collected fees is allowed.

§ 162.16 Who reviews and approves leases or permits?

(a) We must identify potential impacts and ensure compliance with all applicable environmental and land use laws and ordinances before we grant or approve a lease or permit. Usually a formal assessment of potential impacts is not required if the proposed action will not result in a physical alteration of the land or a change in the land use.

(b) To assess potential impacts of approving a permit or lease, we will consider the following:

(1) Relationship between the proposed land use and the use of adjoining land;

(2) Type of improvements;

(3) Availability of essential community services; and

(4) Existence of appropriate regulatory controls and forums for adjudicating disputes.

(c) We may conditionally approve a permit or lease and reserve the right to further modify or rescind it as necessary to mitigate significant environmental impacts. You must not take possession or start operations until:

(1) You complete an environmental analysis under the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and we approve it and decide to approve the permit or lease;

(2) The lease or permit is modified to incorporate mitigation measures identified in the record of decision; and

(3) We certify that all conditions in the original grant or approval are satisfied, and we authorize you to take possession and commence operations.

(d) There is no standard format for a lease or permit. The provisions must conform to the general and special requirements in subparts (C) through (E) of this part. A lease or permit must include a citation of the authority used to grant or approve it and the delegation authority to the granting or approving official.

(e) We will not grant or approve a lease or permit more than one year before its starting date. If a lease or permit is granted or approved after its starting date, it is retroactive to that starting date except when another date is stipulated.

§ 162.17 What happens if you default?

(a) We will determine when a default occurs. We will then notify you and any sureties or encumbrancers.

(b) You have 30 days from the receipt of the notice to cure the default or provide information to justify not canceling the lease or permit. We may grant you additional time to complete corrective actions, but you must immediately begin the work necessary to cure the default and diligently proceed to completion within the time allowed.

(c) You have the right to appeal our decision on whether you defaulted under part 2 of this chapter.

§ 162.18 When can leases or permits be canceled?

(a) We will cancel a lease or permit if you fail to justify extra time to correct or fail to complete required corrective actions. We will notify you and any sureties or encumbrancers of our decision to cancel.

(b) In our notice, we will advise you of your right to appeal under part 2 of this chapter, and we will demand the payment of delinquent rentals and damages due. An appeal bond may be required, the amount of the bond will be the amount of delinquent rentals, damages, and additional rentals expected to accrue during the settlement of the appeal. An appeal filed without the required bond will be dismissed.

Subpart C—General Requirements

§ 162.20 Who can obtain a lease or permit?

(a) The lease or permit must identify all parties, including the owners, the lessee or permittee, and representatives. If a representative executes a lease or permit, it must be clearly stated who is represented and under what authority the representation is allowed.

(b) We may grant a lease or permit to an individual who has ability to contract under applicable law. If a lease or permit is granted to several individuals or an informal association of individuals, the lease or permit will be executed by each individual.

(c) Where a lease or permit is granted to a partnership, all of the general partners must execute the lease or permit in the absence of evidence that all partners are not authorized to bind the lessee or permittee.

(1) A lease or permit to a partnership will indicate whether general partners whose partnership interests are later

terminated will continue to be liable for the debts of the lessee or permittee.

(2) A lease or permit to a limited partnership, corporation, or other limited liability company will identify the place where the organizational documents of the lessee or permittee have been filed.

(d) If a lease or permit is granted to a governmental entity, that is prohibited by law from complying with any of the requirements in this part, we may waive those requirements. But, we must ensure that your sovereign immunity has been waived to the extent necessary to protect the interests of the owners.

§ 162.21 How do we describe leased or permitted areas?

A legal description or the parcel number of the premises must be in the lease or permit. If you propose any development or a metes and bounds description is used, you must provide a current survey plat showing encroachments and the natural features of the land.

§ 162.22 What uses of leased or permitted areas are allowed?

(a) A lease or permit must include:

(1) Authorized uses;

(2) Restricted uses;

(3) Prohibited uses; and

(4) Prohibition of creating a nuisance, any illegal activity, and negligent use or the waste of resources.

(b) You must conduct farming and grazing operations in accordance with the principles of sustained yield management, integrated resource management planning, sound conservation practices, and other community goals as expressed in tribal laws.

(c) You must comply with all applicable laws, ordinances, rules, regulations, and other legal requirements. You must also pay all costs if you do not comply.

§ 162.23 For how long are leases or permits valid?

(a) Leases and permits will specify the beginning and ending dates. The length of time allowed will be the shortest possible considering the purpose, your investment, prudent management, and efficient administration.

(b) The maximum term will depend on the purpose for the lease or permit, the location of the land, and the leasing and permitting authority.

(1) The maximum primary term for public, religious, educational, recreational, residential, or business purposes is 25 years, unless a longer term is specifically authorized by Federal statute. The maximum term for renewals and extensions is 25 years.

(2) We will usually grant agricultural leases or permits not to exceed 10 years including renewals and extensions. The maximum term is 25 years, including renewals and extensions, if substantial investment in development or production of a specialized crop is required. To determine if a long term is justified, we will consider the feasibility of the proposed development or crop production.

(3) The maximum term is 2 years when we grant a lease or permit for the undetermined heirs of an individual Indian decedent, under § 162.13(a)(3).

(c) You cannot extend a lease or permit by holdover. The only ways a lease or permit can be extended is by renewal or automatic extension. Only one extension is allowed. Leases or permits may provide multiple options for unilateral termination. The lease or permit must specify the time and manner an option to renew or terminate is allowed.

§ 162.24 What provisions must be in every lease or permit?

A lease or permit must include provisions stating that:

(a) If the land has trust or restricted status, you and your sureties obligations will be to the United States and the owners;

(b) The lease will not delay or prevent the issue of a fee patent; and

(c) If a fee patent is issued, our responsibilities are assumed by the owners; and

(d) We will notify you of any change land status.

§ 162.25 How much will the lease or permit cost?

(a) We will not approve leases or permits at less than fair annual rental by individual Indian owners or their representatives except:

(1) For religious, educational, recreational, or other public purposes;

(2) For a homesite for the owner's spouse, brother, sister, lineal ancestor, lineal descendent or co-owner.

(3) When a special relationship exists between the parties; or

(4) When we determine it is in the best interest of the owners.

(b) We will not approve leases or permits at less than fair annual rental by a tribe or tribal corporation for tribal land, except:

(1) For religious, educational, recreational, or other public purposes;

(2) For housing or agriculture to a tribal member or tribal entity; or

(3) For a business subsidy for a tribal member or tribal entity.

(c) We will specify in the lease or permit the dates that rents are due and payable. We will also develop a formula for apportionment and/or abatement of rent when you are unable to take possession for the entire rental period. We will not collect rent or other consideration more than one year before its due date unless agreed to by all parties.

(d) We will specify who receives rental payments. If we do not receive the rental payments, you must provide us proof of payment. We may suspend direct payment provisions at any time. If an owner that receives direct payments dies, you must make all future payments to us until the estate is probated.

(e) All leases or permits of more than 5 years duration must have periodic rental adjustments, except when the rental is less than fair annual rental, or if rentals are a percentage of income. We will specify how, and when the adjustments are made, who will make them, and how disputes will be settled. Unless agreed to before hand, adjustments will not:

(1) Give consideration to the value of improvements or developments completed;

(2) Be retroactive if not made on time; and

(3) Be appealable under part 2 of this chapter.

§ 162.26 Will you have to provide a security deposit?

(a) We will usually require that you provide a deposit of cash or marketable securities, a surety bond, an irrevocable letter of credit, a chattel mortgage on personal property located on the premises, or some other type of security, to ensure:

(1) Payment of one year's rental;

(2) Construction of improvements; and

(3) Performance of additional obligations, including the restoration of the land to its original condition.

(b) Tribal laws may establish specific security requirements for agricultural leases or permits, or waive our requirements.

(c) We may waive security requirements for agricultural leases or permits if annual rental is payable in advance, and if performance is secured by compliance to a conservation plan and participation in conservation programs administered by other Federal agencies.

(d) We can adjust security requirements at any time. If you default, we may apply the security and seek replenishment, or we may retain the security and proceed with a notice of default under § 162.17. We may release a security required to ensure the

construction of improvements after completion of construction.

§ 162.27 How can leases or permits be amended or modified?

(a) We will amend leases and permits the same way we approve them under §§ 162.12 and 162.13(a).

(b) Some owners of heirship land may designate one or more of their fellow owners to negotiate and/or agree to amendments or permits on their behalf. In these cases the designated owner:

(1) May negotiate or agree to amendments or permits;

(2) May consent to or approve other items as necessary; and

(3) Cannot negotiate or agree to amendments that reduce the rentals payable to the other owners or terminate or modify the term of the lease or permit.

§ 162.28 Can leases or permits be assigned, transferred, or sublet?

(a) We will approve subleases or assignments of a lease or permit only with the written consent of all parties and sureties.

(b) Under a lease or permit for business purposes, you may sublet a portion of the premises without the consent of the owners, sureties, or us, if the owners receive a fair annual rental for this additional use. A sublease will not relieve you of any liability under the lease or permit, nor will it diminish our supervisory authority.

(c) A tribal housing authority leasing tribal land may make assignments without the consent of the tribe or our approval, if the assignment is to a tribal member and associated with the transfer of a home.

§ 162.29 Can you use a lease or permit as collateral for a loan?

Yes. You may use a lease or grazing permit as loan collateral if you get our approval and the written consent of the owners and sureties. The lease or permit then has an approved encumbrance.

§ 162.30 What restrictions apply if you acquire interest in a lease or permit?

(a) If you acquire interest in a lease or permit by sale or foreclosure of an approved encumbrance:

(1) You may give amortization of the loan priority over your rental payments; and

(2) You may assign your interest without consent or approval, if the assignee agrees in writing to be bound by the terms of the lease or permit.

(b) If you acquire interest in a lease or permit other than by sale of foreclosure of an approved encumbrance:

(1) You need our approval and the consent of the owners and sureties before you may assign your interest; and

(2) The assignee must agree in writing to be bound by the terms of the lease or permit.

§ 162.31 What fees, taxes and assessments must you pay?

(a) If you lease or permit tribal land, you must pay all tribal fees, taxes, and assessments associated with the use of the premises. If you lease or permit individually owned land, you may have to pay also. You will make the payments to the appropriate tribal official.

(b) If you lease or permit land within an Indian irrigation project or drainage district, you will have to pay all charges accruing during the term of the lease or permit, except if part 171 of this chapter supersedes this section. You will make payment to the appropriate Federal official.

§ 162.32 What happens if your lease or permit includes improvements?

(a) We will set starting and ending dates for development of the premises or the construction of improvements. We will also require plans and specifications be submitted before work begins.

(b) Permanent improvements will remain on the premises at the termination of a lease or permit. You can remove other improvements within a set time period if all parties agree. You must restore the premises after removal.

§ 162.33 Do you need insurance?

You must provide enough insurance to protect all insurable improvements on the premises. You must also obtain liability insurance to protect the interests of the owners. All insurance policies must identify the individual Indian and tribal owners and the United States as insured parties.

§ 162.34 What remedies are available if there is a default or dispute?

(a) A lease or permit covering a tract of tribal land may provide a tribe with self-help remedies such as a right of entry. Upon default, a tribe may elect to exercise its rights under the lease or permit, or it may request that we cancel the lease or permit pursuant to § 162.18.

(b) If a lease or permit covering a tract of tribal land authorizes termination pursuant to state or tribal law, or provides for the resolution of certain types of disputes through arbitration, the lease or permit provisions will govern the termination or dispute arbitration.

Subpart D—Special Provisions for Grazing Permits

§ 162.40 How are grazing units established?

We will establish and modify grazing units boundaries to provide for the conservation, development, and effective use of Indian, and Government rangeland. We will consult with the tribe having jurisdiction to comply with tribal land management policies.

§ 162.41 How many animals can you graze?

(a) We will prescribe the maximum number of livestock that can graze on a grazing unit, and the seasons of authorized grazing use consistent with tribal land management policies. We will continuously review stocking rates and adjust them to meet changing conditions.

(b) A tribe may prescribe the kind of livestock that graze on rangeland within its jurisdiction. But, we may require other kinds of livestock if it is essential to the prudent management or efficient administration of the permitted land.

§ 162.42 When do we issue grazing permits?

(a) We may include one or more tracts of individually owned rangeland in a grazing unit, and grant a grazing permit covering such land, on behalf of the following owners:

(1) Adults who are legally disabled;

(2) Orphaned minors;

(3) The undetermined heirs or devisees of individual Indian decedents;

(4) Individual Indians who have given us written authority to act on their behalf; and

(5) Individual Indians whose whereabouts are unknown.

(b) We must notify the Indian owners before we grant a grazing permit on heirship rangeland. They must have 90 days to agree to the permit, withdraw their tract from the grazing unit, or stipulate a higher rental than we proposed.

(c) We may include tribal rangeland within a grazing unit, and grant a grazing permit if the tribe has given us written authority. Without tribal authority, we can only include tribal rangeland if it is essential to the prudent management or efficient administration of the land. We must give the tribe written notice 60 days before the start of a permit. We will not issue the permit if the tribe files a written objection to the proposed permit within the notice period.

§ 162.43 What happens when we implement a tribal allocation program?

(a) A tribe may authorize us to allocate rangeland under its jurisdiction without negotiation or advertisement. We may grant permits under § 162.42(a) and (b), to implement a tribal allocation program, despite there not being an applicable tribal law. The minimum grazing rentals established under § 162.45(a) will generally be payable to any individual Indian owners of allocated land.

(b) The tribe having jurisdiction will prescribe eligibility requirements with our concurrence. If a tribe fails to establish its eligibility requirements on time, we may establish the requirements after a 60-day notice.

§ 162.44 When will we give stocking rate credit?

A grazing permit may grant a permittee a stocking rate credit where the permittee owns or controls other rangeland which adjoins or lies within the grazing unit, and which is grazed in common with the permitted land. The stocking rate credit will be reflected in the grazing capacity of the grazing unit, established pursuant to § 162.40 of this part.

§ 162.45 How much will grazing rental cost?

(a) We will determine fair annual rentals for reservations with rangeland by establishing its minimum grazing rental. These minimum grazing rentals will apply to all livestock owned by non Indians or nonmembers when their livestock grazes on tribal land.

(b) Owners may set alternative minimum rentals, when we grant a grazing permit under § 162.42(a) and (b). Except when lower rentals are authorized under § 162.25(a), the alterative minimum rentals may not be lower than the minimum we set.

§ 162.46 When will permits or tracts be revoked or withdrawn?

(a) If you default, we may cancel the grazing permit under § 162.18, unless we agree to an alternative remedy.

(b) We may revoke or withdraw tracts from a permit if the tribe wants to include the land in its allocation program or an individual Indian owner wants his/her land exempt from permitting under § 162.14(b). The new user must compensate the previous user for any improvements completed before the revocation or withdrawal, and adopt an established conservation plan or develop a new plan acceptable to us. Owners may only withdraw a tract after it is fenced.

(c) We must notify the user 180 days before a revocation or withdrawal is executed. The effective date will be the next anniversary date after notice period, unless a different date is agreed to.

Subpart E—Special Requirements for Specific Reservations

§ 162.50 Crow Reservation.

(a) Some Crow Indians are classified as competent under the Act of June 4, 1920 (41 Stat. 751), as amended. They may lease their trust lands and the trust lands of their minor children for farming or grazing without our approval per the Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80). We must issue a public notice if competent Crow Indians authorize us to lease or permit, or assist in the leasing and permitting their lands. When this occurs, we will comply with the regulations in this part. We must approve leases or permits signed by non competent Crow Indians and leases or permits on inherited or devised trust lands owned by more than five competent devisees or heirs.

(b) The Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80), sets five years as the maximum lease term for farming or grazing. The maximum term for leases or permits of irrigable lands under the Big Horn Canal is 10. You will not have a preference right to future leases or permits if the total period of encumbrance would exceed the maximum terms allowed.

(c) All leases or permits entered into by competent Crow Indians must be recorded at the Crow Agency. Recording will constitute public notice.

(1) Under these special statutes, Crow Indians classified as competent are free to lease their property within certain limitations. The 5-year (10-year in the case of lands under the Big Horn Canal) limitation is intended to afford a protection to the Indians. The essence of this protection is the right to deal with the property free, clear, and unencumbered at intervals at least as frequent as those provided by law. If lessees or permittees are able to obtain new leases or permits long before the termination of existing leases or permits, they may set their own term. In these circumstances, lessees could perpetuate their leaseholds and bypass the statutory limitations on terms.

(2) In implementation of the interpretation, in paragraph (c)(1) of this section we will not record any lease which:

(i) On its face, violates statutory limitations or requirements;

(ii) Is executed more than 12 months (if a grazing lease) or 18 months (if a farming lease), before its term begins; or

(iii) Purports to cancel an existing lease with the same lessee as of a future date and take effect upon cancellation.

(3) Under a Crow tribal program, competent Crow Indians may enter into agreements which require that, for a specified term, their leases or permits be approved. Information about whether a competent Crow Indian has executed such an instrument is available at the office of the Superintendent of the Crow Agency, Bureau of Indian Affairs, Crow Agency, Montana. We will return without recordation any lease entered into with a competent Crow Indian during the time such instrument is in effect that is not in accordance with the instrument.

(d) Where any of the following conditions are found to exist, leases will be recorded but the lessee and lessor will be notified upon discovery of the condition:

(1) The lease in single or counterpart form has not been executed by all owners of the land described in the lease;

(2) There is, of record, a lease on the land for all or a part of the same term;

(3) The lease does not contain stipulations requiring sound land utilization plans and conservation practices; or

(4) There are other deficiencies such as, but not limited to, erroneous land descriptions, and alterations which are not clearly endorsed by the lessor.

(e) Any competent adult Crow Indian will have the full responsibility for obtaining compliance with the terms of any lease made by him/her under this section. This will not preclude action by us to ensure conservation and protection of these trust lands.

(f) Leases made by competent Crow Indians will be subject to the right to issue permits and leases to prospect for, develop, and mine oil, gas, and other minerals, and to grant rights of way and easements, in accordance with applicable law and regulations. In issuing or granting of permits, leases, rights of way or easements we will give due consideration to the interests of lessees and to the adjustment of any damages to such interests. If there is a dispute over the amount of damage, the matter will be referred to us. Our determination of the amount of damage will be final.

§ 162.51 Cabazon, Augustine, and Torres-Martinez Reservations.

(a) We may grant a lease of trust or restricted land on the Cabazon, Augustine, and Torres-Martinez Indian

reservations, if the land is irrigable by the Coachella Valley County Water District and we determine that the owners are not benefitting from its use.

(b) You must file a lease of trust or restricted land on the Cabazon, Augustine, and Torres-Martinez Indian reservations with the appropriate county recorder. You must also file the lease with the Coachella Valley County Water District or other appropriate irrigation or water district.

§ 162.52 Salt River and San Xavier Reservations.

(a) A lease of trust or restricted land on the Salt River or San Xavier reservation may authorize more than one renewal period, but the maximum term allowable by law can not be exceeded. A lease for public, religious, educational, recreational, residential, or business purposes may run for a maximum term of 99 years, and a lease for farming purposes may run for up to 40 years where a substantial investment in the development of the land or the production of a specialized crop is required.

(b) If we determine that the governmental interests of a municipality contiguous to either the Salt River or San Xavier reservation would be substantially affected by the grant or approval of a lease, and these interests cannot be adequately assessed on the basis of the information available (under § 162.16), we must notify the municipality of the proposed action and give them 30 days to comment.

(c) The scenic, historic, and religious values of the Mission San Xavier del Bac on the San Xavier Reservation must be protected.

§ 162.53 Tulalip Reservation.

The Tulalip Tribes may grant a lease without our approval, if the term of the lease does not exceed 15 years including renewal or extension periods. The Tulalip Tribes may grant a lease without our approval for up to 30 years, including renewal or extension periods, under tribal law approved by us.

Date: May 31, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–14640 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–02–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules Governing Misconduct by Attorneys or Party Representatives Before the Agency

AGENCY: National Labor Relations Board.

ACTION: Notice of Extension of Time for filing comments to proposed rulemaking.

SUMMARY: Pursuant to a request from the Management Co-Chair of the American Bar Association Subcommittee on NLRB Practice and Procedure, the NLRB gives notice that it is extending by approximately 45 days the time for filing comments on the proposed rule changes governing misconduct by attorneys or party representatives before the Agency (61 FR 25158, May 20, 1996).

DATES: The comment period which currently ends on June 19, 1996, is extended to August 2, 1996.

ADDRESSES: Comments on the proposed rulemaking should be sent to: Office of the Executive Secretary, 1099 14th Street, NW., Rm. 11600, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Telephone: (202) 273–1940.

Dated, Washington, DC, June 11, 1996.

By direction of the Board:

John J. Toner,

Executive Secretary.

[FR Doc. 96–15164 Filed 6–14–96; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5521–3]

Clean Air Act Proposed Interim Approval and in the Alternative Disapproval of Operating Permits Program, State of Idaho; Clean Air Act Proposed Delegation of National Emission Standards for Hazardous Air Pollutants as They Apply to Part 70 Sources and Approval of Streamlined Mechanism for Future Delegations, State of Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: The EPA is reproposing action on two limited aspects of the Operating Permits Program submitted by the Idaho Division of Environmental Quality for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources and to certain other sources. The first element involves the changes EPA believes are necessary as a condition of full approval to the State's regulations dealing with general permits. The second element involves the effect of the State's environmental audit statute on the State's enforcement obligations under title V of the Clean Air Act.

In addition, if EPA grants interim approval of Idaho's title V operating permits program, EPA proposes to delegate the National Emission Standards for Hazardous Air Pollutants (NESHAP) as adopted by the State and as they apply to part 70 sources. EPA also proposes to approve a streamlined mechanism for future NESHAP delegations.

DATES: Comments must be submitted by July 17, 1996.

ADDRESSES: Comments must be submitted to Elizabeth Waddell, at EPA Region 10, 1200 Sixth Avenue, M/D–108, Seattle, WA 98101. Copies of the State's submittal and other supporting information used in developing this proposed action are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Docket # 10V100, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Elizabeth Waddell, 1200 Sixth Avenue, M/D–108, Seattle, WA 98101, (206) 553–4303.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

1. Title V

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a

period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

2. Section 112

Section 112(l) of the Act established new, more stringent requirements upon a State or local agency that wishes to implement and enforce an air toxics program pursuant to section 112 of the Act. Prior to November 15, 1990, delegation of NESHAP regulations to the State and local agencies could occur without formal rulemaking by EPA. However, the new section 112(l) of the Act requires EPA to approve State and local toxics rules and programs under section 112 through formal notice and comment rulemaking. State and local air agencies that wish to implement and enforce a Federally-approved air toxic program must make a showing to EPA that they have adequate authorities and resources. Approval is granted by EPA through the authority contained in section 112(l), and implemented through the Federal rule found in 40 CFR part 63, subpart E if the Agency finds that: (1) the State or local program or rule is ''no less stringent'' than the corresponding Federal rule or program, (2) adequate authority and resources exist to implement the State or local program or rule, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the State or local program or rule is otherwise in compliance with Federal guidance.

3. Prior Action on Idaho's Title V Submittal

On October 27, 1995, EPA proposed disapproval of Idaho's operating permits program because of deficiencies in the State's provisions for excess emissions and administrative amendments. In the alternative, EPA proposed interim approval of Idaho's program provided Idaho revised its regulations to address these deficiencies and submitted the revisions to EPA before final action on Idaho's submittal. *See* 60 FR 54990. EPA also proposed to grant interim approval under section 112(l)(5) of the Act and 40 CFR 63.91 of Idaho's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated, but only as they apply to part 70 sources, if EPA granted interim approval to Idaho's title V program. The EPA received a single letter of public comment on the proposal. The commenter disagreed with EPA's proposal to approve Idaho's program only for sources located outside the exterior boundaries of Indian Reservations and with EPA's failure to grant full approval to Idaho's insignificant activities list. In addition, Idaho has submitted program revisions addressing EPA's two proposed grounds for disapproving Idaho's program. Neither the comments submitted in response to the October 25, 1995, proposal nor the program revisions submitted by the State involve the two issues on which EPA is reproposing action in this notice. Accordingly, EPA will address the comment, any additional comments it receives in response to this reproposal and the effect of the State's program revisions when EPA takes final action after the close of the public comment period on this notice.

II. Discussion

A. Reconsideration of General Permit Requirements

In the October 27, 1995, Federal Register notice proposing action on Idaho's title V submission, EPA identified four deficiencies in Idaho's general permitting regulations which EPA believed must be addressed as a condition of full approval. *See* 60 FR 54990 (October 27, 1995). One such deficiency identified by EPA was that the Idaho Administrative Procedures Act (IDAPA) 16.01.01.335.05 states that issuance of authorization to operate under a general operating permit is a final agency action for purposes of administrative and judicial review of the authorization. EPA stated that this provision was in conflict with the requirements of 40 CFR 70.6(d)(2), which allows a permitting authority to grant a source's request for authorization to operate under a general permit without repeating the public participation procedures, but provides that such grant shall not be final agency action for purposes of judicial review. Upon further reflection, EPA believes that part 70 does not prevent a permitting authority from subjecting a decision to grant or deny a general permit to judicial review, but instead merely states that a permitting authority is not required to make such a decision subject to judicial review. In this respect, the Idaho program does not conflict with the requirements of part 70, but instead merely requires more public participation than required by part 70. Accordingly, EPA believes the Idaho program does not conflict with the requirements of part 70 by subjecting to administrative and judicial review the State's decision that a particular source meets or fails to meet the applicability requirements for a general permit. EPA therefore proposes that Idaho not be required to eliminate this provision as a condition of full approval.

B. Idaho's Environmental Audit Statute

The Clean Air Act sets forth the minimum elements required for approval of a State operating permits program, including the requirement that the permitting authority has adequate authority to assure that sources comply with all applicable CAA requirements as well as authority to enforce permits through recovery of minimum civil penalties and appropriate criminal penalties. Section 502(b)(5) (A) and (E) of the CAA. EPA's implementing regulations, which further specify the required minimum elements of State operating permits programs (40 CFR part 70), explicitly require States to have certain enforcement authorities, including authority to seek injunctive relief to enjoin a violation, to bring suit to restrain violations imposing an imminent and substantial endangerment to public health or welfare, and to recover appropriate criminal and civil penalties. 40 CFR 70.11. In addition, section 113(e) of the Clean Air Act sets forth penalty factors for EPA or a court to consider for assessing penalties for civil and criminal violations of title V permits. EPA is concerned about the potential impact of some State privilege and immunity laws on the ability of such States to enforce federal requirements, including those under title V of the Clean Air Act. Based on review and consideration of the statutory and regulatory provisions discussed above, EPA issued guidance on April 5, 1996, entitled, ''Effect of Audit Immunity/Privilege Laws on States' Ability to Enforce Title V Requirements'' to address these concerns. This guidance outlines certain elements of State audit immunity and privilege laws which, in EPA's view, may so hamper the State's ability to enforce as to preclude approval the State's title V operating permits program.

In the October 27, 1995, Federal Register notice proposing action on Idaho's title V submission, which was published prior to issuance of the April 5, 1996, guidance, EPA discussed the impact of Idaho's environmental audit statute, Idaho Code Title 9, Chapter 8, on the approvability of Idaho's title V operating permits program. EPA expressed concern with two aspects of Idaho's environmental audit statute. *See* 60 FR 55000. First, EPA was concerned with the provision prohibiting the State from compelling a source, with certain limited exceptions, to provide the State

a report that meets the definition of an ''environmental audit report'' (referred to here as the ''audit privilege''). *See* Idaho Code 9–804 to –807. Although EPA was concerned that the audit privilege could be used to shield bad actors and frustrate access to crucial factual information, however, EPA stated it did not believe that Idaho's audit privilege posed a bar to full title V approval. Second, EPA was concerned with the provision which grants a source immunity from civil or criminal liability for any violations voluntarily disclosed by the source to the State in an environmental audit report (referred to here as the ''audit immunity provision''). *See* Idaho Code 9–809. EPA stated that the audit immunity provision of the Idaho environmental audit statute appeared to impermissibly interfere with the requirement that States have authority to collect a penalty for each day of violation. Therefore, EPA proposed to require, as a condition of full approval, that Idaho eliminate the audit immunity provision of Idaho Code 9–809 or demonstrate to EPA's satisfaction that the provision does not impermissibly interfere with the enforcement requirements of title V.

Since publishing the October 27, 1995, proposal acting on Idaho's title V program, EPA has reviewed the audit immunity and audit privilege provisions of Idaho's audit immunity statute in light of the April 5, 1996, guidance. After further consideration of the enforcement requirements of title V and the Idaho environmental audit statute in light of this guidance, EPA believes that both the immunity and privilege provisions of the Idaho environmental audit statute deprive the State of Idaho of adequate authority to enforce the requirements of title V of the Clean Air Act. Accordingly, EPA proposes that Idaho be required to revise both the audit immunity and audit privilege provisions of its environmental audit statute or demonstrate to EPA's satisfaction that these provisions do not impermissibly impair the enforcement authorities required for full title V approval.

1. Audit Immunity Provision

EPA continues to believe that the Idaho immunity statute (Idaho Code 9–809) impermissibly interferes with the enforcement requirements of title V and part 70. In addition, EPA has identified additional ways in which the Idaho audit immunity provision appears problematic. The Idaho statute provides that any person who makes a voluntary disclosure of an environmental audit report identifying circumstances that may constitute a violation of State environmental laws to the appropriate agency shall be immune from civil or criminal penalties or incarceration for the underlying associated acts. Idaho Code 9–809(1). This provision does contain some restrictions. First, the immunity does not apply to the extent the disclosure is required by law or a specific permit condition or order because such a disclosure is not considered ''voluntary'' under the Idaho statute. Idaho Code 9–809(5). Because of the recordkeeping, reporting and compliance certification requirements of 40 CFR 70.6, which Idaho has adopted as part of its title V program (*see* IDAPA 16.01.01.322), the scope of the audit immunity should be greatly restricted with respect to title V sources in Idaho. Second, the immunity is not available if the person has committed ''serious violations that constitute a pattern of continuous or repeated violations of environmental laws, regulations, permit conditions, settlement agreements, consent orders, and were due to separate and distinct events giving rise to the violations within the three (3) year period prior to the date of the disclosure.'' Idaho Code 9–809(6). These restrictions do diminish the scope of the immunity to some extent. Nevertheless, the Idaho statute appears to bar prosecution of ''knowing'' violations of title V requirements unless the source has previously and repeatedly violated the same requirements within the past three years. EPA believes, such a restriction on criminal penalty authority deprives the State of authority to recover ''appropriate'' penalties for criminal conduct, as required by section 502(b)(5)(E) of the Act and 40 CFR 70.11(a)(3)(ii), 70.11(a)(3)(iii) and 70.11(c). Moreover, the Idaho statute would preclude the assessment of civil penalties for violations voluntarily disclosed in an environmental audit even if the violations resulted in serious harm or risk of harm to the public or the environment or resulted in substantial economic benefit to the violator. Section 113(e) of the Clean Air Act requires EPA or the court to consider these factors in assessing penalties. To the extent the Idaho statute prevents consideration of these factors, EPA believes that Idaho does not have adequate authority to assess appropriate penalties as required by section 502(b)(5)(E) of the Clean Air Act and 40 CFR 70.11(c).

In addition to the impermissible restrictions on criminal and civil penalties, EPA also believes that the Idaho immunity statute unduly interferes with the State's authority to issue emergency orders and seek injunctive relief. Title V requires a State to have clear authority to restrain or enjoin immediately activities that present an imminent and substantial endangerment to public health or welfare or the environment and to seek injunctive relief where necessary to stop a violation, correct noncompliance and prevent its recurrence. *See* section 502(b)(5)(E); 40 CFR 70.11(a) (1) and (2). The Idaho audit immunity provision could be interpreted to interfere with these requirements in two respects. First, Idaho Code 9–809(7) states that the audit immunity does not affect the authority of the State to require remedial action through a consent order or action in district court or to abate an imminent hazard ''[e]xcept as specifically provided,'' but the exception to the immunity provision also states that ''[a] person may, but is not required, to enter into a voluntary consent order with the environmental regulatory agency to achieve compliance.'' Idaho Code 9–809(5). This provision suggests that the State may be precluded from issuing a unilateral order or seeking a court order requiring a source to correct a violation on a specified schedule, at least where the violation does not involve an imminent hazard.

Second, Idaho Code 9–809(3) states that ''where audit evidence shows the noncompliance to be the failure to obtain a permit or other governmental permission, appropriate efforts to correct the noncompliance may be demonstrated by the submittal of a permit application or equivalent document within a reasonable time.'' A source must generally demonstrate that it has achieved compliance within a reasonable period in order to demonstrate that an audit was voluntary and thus a basis for seeking immunity. *See* Idaho Code 9–809(2)(c). It is unclear, however, whether Idaho Code 9–809(3) was intended to allow a source to continue the unlawful activity for which a permit was required (for example, construction of a new major source without a permit) without being subject to penalty or other enforcement action or whether it was merely intended to give the source immunity for its past activities of constructing without a permit. As noted above, EPA believes that the Idaho audit immunity provision does not comport with the title V requirements for penalty authority to the extent it grants immunity for criminal violations and for civil violations resulting in serious harm or risk of harm or a substantial economic benefit. If Idaho Code 9–809(3) would also prevent the State from issuing or seeking an order

enjoining the violation (for example, an order halting construction), EPA believes that the Idaho law would also impermissibly interfere with the enforcement requirements of title V and part 70. In short, EPA believes that the effect of Idaho's audit immunity provision on the requirements of 40 CFR 70.11(a) (1) and (2) for emergency orders and injunctive relief is unclear and must be clarified by the State as a condition of full approval.

2. Audit Privilege

The part 70 regulations governing program approval do not specifically address the scope of privileges available in State enforcement actions. Nonetheless, EPA believes that where a State adopts a very broad privilege law specifically directed at evidence related to environmental violations, that privilege could go so far as to render the overall State enforcement program inadequate even if other authorities are nominally available (such as injunctive relief and penalty authority). An excessively broad privilege could so interfere with the exercise of these nominal enforcement authorities as to render them meaningless by depriving the State of the ability to gather evidence needed to establish a violation.

The Idaho audit privilege (Idaho Code 9–804 to –807) broadly prohibits the State from requiring a source to disclose an ''environmental audit report,'' thus depriving the State of potentially important information for determining whether a source is in violation, whether a violation was knowing and whether the source took prompt action to correct the violation. The Idaho legislation does contain some restrictions on the scope of this privilege. Importantly, the law makes clear that ''[d]ocuments, data and other information which must be collected, developed and reported pursuant to federal and state law, rule and regulation must be disclosed in accordance with the applicable law, rule or regulation.'' Idaho Code 9–805; *See also* Idaho Code 9–807. Because of the recordkeeping, reporting and compliance certification requirements of 40 CFR 70.6, which Idaho has adopted as part of their title V program (see IDAPA 16.01.01.322), the scope of the audit privilege should be greatly restricted with respect to title V sources in Idaho. In addition, the audit privilege does not apply if an environmental agency or a court, after *in camera* review, determines that the environmental audit privilege is asserted for a fraudulent purpose or that the material sought to be withheld is not an appropriate subject for an environmental audit. Idaho Code 9–806(2). Nonetheless, where an audit produces evidence of noncompliance, the Idaho privilege would prevent the State from reviewing that evidence to determine whether the violation will be corrected and compliance assured. Similarly, where an audit reveals evidence of prior criminal conduct on the part of managers and employees, Idaho would be barred from obtaining and using such information. As a result, the State would be prevented from obtaining appropriate criminal penalties. In these respects, EPA believes that the Idaho audit privilege set forth in Idaho Code 9–804 to –807 is so broad so as to deprive the State of its ability to obtain appropriate criminal penalties and assure compliance, as required by section 502(b)(5)(E) of the Clean Air Act and 40 CFR 70.11.

C. Proposed Action on Section 112(l) Submittal

As stated above, the requirements for title V approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a State program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. On October 27, 1995, EPA proposed to grant interim approval under Section 112(l)(5) of the Act and 40 CFR 63.91 of the State of Idaho's program for receiving delegation of 112 standards that are unchanged from Federal standards as promulgated but only as they apply to Part 70 sources, if EPA granted interim approval to Idaho's operating permits program.

By letter dated December 14, 1995, Idaho also requested that EPA approve its use of the automatic delegation mechanism for delegation of future section 112 standards unchanged from the Federal standards as described in section 5.1.2.a of EPA's ''Interim Enabling Guidance for the Implementation of 40 CFR Part 63'', Subpart E, EPA–453/R–93–040, November 1993 (Subpart E Enabling Guidance). After reviewing Idaho's legal authorities, EPA has determined that Idaho does not meet the criteria set forth in the Subpart E Enabling Guidance to receive automatic delegation of future section 112 standards because it cannot immediately implement and enforce future section 112 standards without additional rulemaking at the State level.

Although Idaho has the authority to include Federal standards in part 70 permits without adopting such standards by reference, the section 112 requirements for some part 70 sources will take effect (or already have taken effect) prior to the issuance of their part 70 permits. To obtain approval of the delegation of section 112 standards, Idaho must be able to implement and enforce those standards upon approval and assure compliance by all sources within the State with each applicable regulation promulgated under section 112. EPA is therefore denying Idaho's request for automatic delegation as described by the State's December 14, 1995 letter.

However, in IDAPA 16.01.107, Idaho has adopted by reference all Federal standards contained in 40 CFR part 61 and part 63 as in effect on April 1, 1994. In addition, Idaho has the authority to implement and enforce those 112 standards that it has adopted by reference. Therefore, if EPA grants interim approval to Idaho's operating permits program, EPA proposes to interimly delegate the section 112 standards contained in 40 CFR parts 61 and 63 which were in effect on April 1, 1994, and as those rules apply to part 70 sources. Those standards consist of 40 CFR part 61, subparts A through F, H through R, V, W, Y, BB, and FF; and 40 CFR part 63, subparts A, D, L, and M. EPA would retain implementation and enforcement authority for these rules as they apply to non-part 70 sources. EPA recommends that by the time of final interim approval of this submittal, Idaho should adopt by reference 40 CFR part 61 and 63 at least as in effect June 1, 1996, and continue to update its incorporation by reference as the federal 112 standards are revised and new Federal standards are issued.

In addition, EPA proposes to approve the mechanism described in Section 5.1.2.b of the Subpart E Enabling Guidance for those Federal standards that Idaho adopts by reference unchanged, if EPA grants interim approval to Idaho's operating permits program. Using this streamlined approach, upon adoption of a NESHAP(s) by reference, Idaho will only need to send a letter of request to EPA. EPA would in turn respond to this request by sending a letter back to the State delegating the appropriate NESHAP(s) as requested. No further formal response from the State would be necessary at this point, and if a negative response from the State is not received within 10 days of this letter of delegation from EPA, the delegation would then become final.

Although EPA is proposing to delegate authority to Idaho to enforce the NESHAP regulations as they apply

to part 70 sources, it is important to note that EPA will retain oversight authority for all sources subject to these federal CAA requirements. EPA has the authority and responsibility to enforce the Federal regulations in those situations where the State is unable to do so or fails to do so.

III. Proposed Action and Implications

EPA is reopening the public comment on two conditions EPA proposed in the October 27, 1995, Federal Register notice (60 FR 54990) as conditions that Idaho must meet to obtain full approval of its operating permits program. First, upon further reflection, EPA believes that IDAPA 16.01.01.335.05, which states that issuance of authorization to operate under a general operating permit is a final agency action for purposes of administrative and judicial review of the authorization, does not conflict with the requirements of 40 CFR 70.6(d)(2), but instead merely requires more public participation than required by part 70. If EPA takes final action on this proposal, condition ''n. General Permits'' of Section II.B.2 of the October 27, 1995 Federal Register notice (60 FR 54997) would be revised to read as follows:

n. General Permits

Idaho must revise its regulations authorizing general permits to be consistent with 40 CFR 70.6(d), including provisions requiring: (a) that if a permitting authority has issued a general permit, the authority must grant the conditions and terms of the general permit to sources that qualify; (b) specialized general permit applications meet the requirements of title V; and (c) that the State may take enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.

Second, EPA believes that Idaho's environmental audit privilege, as well as Idaho's environmental audit immunity provision, interfere with the enforcement requirements of title V and part 70 and must be revised or otherwise shown to be consistent with title V and part 70 requirements. If EPA takes final action on this proposal, condition ''aa. Environmental Audit Statute'' of Section II.B.2 of the October 27, 1995 Federal Register notice (60 FR 54997) would be revised to read as follows:

aa. Environmental Audit Statute

Idaho must revise both the immunity and audit provisions of the Idaho environmental audit statute, Idaho Code title 9, chapter 8, to ensure that it does not interfere with the requirements of section 502(b)(E)(5) of the Clean Air Act and 40 CFR 70.11 for adequate authority to pursue appropriate criminal and civil penalties, issue emergency orders, obtain injunctive relief and otherwise assure compliance. In the alternative, Idaho must demonstrate to EPA's satisfaction that these required enforcement authorities are not impaired by Idaho's environmental audit statute.

Also, if EPA grants interim approval of Idaho's operating permits program, in addition to approving the program submitted by the State of Idaho for the purpose of implementing and enforcing the hazardous air pollutant requirements under section 112 of the Clean Air Act, EPA proposes to delegate all federal NESHAPs adopted by the State, as they apply to part 70 sources and to approve the streamlined mechanism for delegation described in Section 5.1.2.b of the Subpart E Enabling Guidance.

IV. Administrative Requirements

A. Request for Public Comments

EPA is requesting comments on the three issues addressed in this notice, namely, (1) conditioning full approval of the Idaho title V operating permits program on specified changes to Idaho's regulations addressing general permits (IDAPA 16.01.01.335); (2) conditioning full approval of the Idaho title V operating permits program on specified changes to Idaho's environmental audit statute (Idaho Code title 9, chapter 8) or a satisfactory explanation of why the statute does not interfere with title V enforcement requirements; and (3) EPA's proposal to delegate all federal NESHAPs adopted by the State, as they apply to part 70 sources and to approve the streamlined mechanism for delegation described in Section 5.1.2.b of the Subpart E Enabling Guidance. All other aspects of EPA's October 27, 1996 Federal Register notice (60 FR 54990), including all other conditions on interim and full approval of Idaho's operating permits program, remain unchanged by this reproposal and are no longer open for public comment. Copies of the State's submittal and other information relied upon for this proposed action and notice are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed action. The principal purposes of the docket are:

(1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) to serve as the record in case of judicial review.

The EPA will consider any comments received by July 17, 1996.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

EPA actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. NESHAP rule or program delegations approved under the authority of section 112(l) of the Act also do not create any new requirements, but simply confer Federal authority for those requirements that the State of Idaho is already imposing. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements, Hazardous substances.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 6, 1996.

Phil Millam,

Acting Regional Administrator.

[FR Doc. 96–15281 Filed 6–14–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5520–3]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 20

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list.

This rule proposes to add 15 new sites to the NPL, 13 to the General Superfund Section and 2 to the Federal Facilities Section. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

DATES: Comments must be submitted on or before August 16, 1996.

ADDRESSES: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters, U.S. EPA, CERCLA Docket Office, (Mail Code 5201G); 401 M Street, SW., Washington, DC 20460, 703/603–8917. Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, and for additional Docket addresses and further details on their contents, see Section I of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, State and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Pub. L. 99–499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action * * * and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 U.S.C. 9601(23). ''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List (''NPL'').

CERCLA section 105(a)(8)(B) defines the NPL as a list of ''releases'' and as a list of the highest priority ''facilities.'' CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983).

Three mechanisms for placing sites on the NPL for possible remedial action are included in the NCP at 40 CFR 300.425(c). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR

300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 29, 1995 (60 FR 50435).

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites being addressed generally by other Federal agencies (the ''Federal Facilities Section''). Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes facilities at which EPA is not the lead agency.

Site Boundaries

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known ''releases or threatened releases.'' Thus, the purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, described at 48 FR 40663 (September 8, 1983)).

When a site is listed, it is necessary to define the release (or releases) encompassed within the listing. The approach generally used is to delineate a geographical area (usually the area within the installation or plant boundaries) and define the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to define the site, and any other location to which contamination from that area has come to be located.

While geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by the particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the facility or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the threat presented by a release'' will be determined by a Remedial Investigation/Feasibility Study (RI/FS) as more information is developed on site contamination (40 CFR 300.430(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required;

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

To date, the Agency has deleted 108 sites from the final NPL.

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL.

Inclusion of a site on the CCL has no legal significance.

In addition to the 102 sites that have been deleted from the NPL because they have been cleaned up (6 sites have been deleted based on deferral to other authorities and are not considered cleaned up), an additional 251 sites are also on the NPL CCL. Thus, as of June 1996, the CCL consists of 353 sites.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, (Mail Code 5201G), Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603–8917. (Please note this is visiting address only. Mail comments to address listed in ''Addresses'' section above.)

Jim Kyed, Region 1, U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656.

Ben Conetta, Region 2, U.S. EPA, 290 Broadway, New York, NY 10007–1866, 212/637–4435.

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/566–5250.

Kathy Piselli, Region 4, U.S. EPA, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347–4216.

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214.

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740.

Carole Long, Region 7, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224.

Bob Heise, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/312–6831.

Carolyn Douglas, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2343.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

The Headquarters docket also contains an ''Additional Information'' document which provides a general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, and the economic impacts of NPL listing.

Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an ''as received'' basis. Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (D.C. Cir. 1988). EPA will make final listing decisions after considering the relevant comments received during the comment period.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

Contents of This Proposed Rule

Table 1 identifies the 13 sites in the General Superfund Section being proposed to the NPL in this rule. Table 2 identifies the 2 sites in the Federal Facilities Section being proposed to the NPL in this rule. These tables follow this preamble. All sites are proposed based on HRS scores of 28.50 or above. The sites in Table 1 and Table 2 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

This action along with a final rule published elsewhere in today's Federal Register, results in an NPL of 1,227 sites, 1,073 in the General Superfund Section and 154 in the Federal Facilities Section. An additional 52 sites are now proposed and are awaiting final agency action, 47 in the General Superfund Section and 5 in the Federal Facilities Section. Final and proposed sites now total 1,279.

III. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

IV. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule,

section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not subject to the requirements of sections 202, 203 or 205 of the Unfunded Mandates Reform Act.

V. Governor's Concurrence

On May 2, 1996, Congress enacted the Omnibus Consolidated Rescissions and Appropriations Act of 1996 Public Law (Pub. L.) 104–134, which established federal government spending limitations for the fiscal year ending September 30, 1996. Pub. L. 104–134 provides that EPA may not use funds made available for fiscal year 1996 ''to propose for listing or to list any additional facilities on the National Priorities List * * * unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located. * * *'' EPA has received letters from the appropriate governors requesting that the Agency list on the NPL all the facilities in this rule with one exception. EPA received a letter for the Del Amo site from the State environmental agency with prior verbal agreement from the Governor of California. These letters are available in the docket for this rulemaking.

VI. Effect on Small Businesses

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

NATIONAL PRIORITIES LIST PROPOSED RULE #20, GENERAL SUPERFUND SECTION

[Number of Sites Proposed to General Superfund Section: 13]

State	Site name	City/County	NPL Gr [1]
CA	Del Amo	Los Angeles	22
FL	MRI Corp (Tampa)	Tampa	16
FL	Stauffer Chemical Co (Tampa)	Tampa	1
IL	Circle Smelting Corp	Beckemeyer	1
IL	Sauget Area 1	Sauget	1
LA	Madisonville Creosote Works	Madisonville	7
MD	Central Chemical (Hagerstown)	Hagerstown	5/6
NH	Beede Waste Oil	Plaistow	1
NY	Cross County Sanitation Landfill	Patterson	5/6
PR	V&M/Albaladejo	Vega Baja	5/6
SC	Shuron Inc	Barnwell	1
TX	Tex-Tin Corp	Texas City	5/6
WV	Sharon Steel Corp (Fairmont Coke Works)	Fairmont	2

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

NATIONAL PRIORITIES LIST PROPOSED RULE #20, FEDERAL FACILITIES SECTION

[Number of Sites Proposed to Federal Facility Section: 2]

State	Site name	City/County	NPL Gr [1]
FL	Tyndall Air Force Base	Panama City	5/6
VA	Sewells Point Naval Complex	Norfolk	5/6

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Environmental Protection, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 6, 1996.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 96–15033 Filed 6–14–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 87–75; FCC 96–161]

Provision of Aeronautical Services via the Inmarsat System

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted restrictions on use of the Inmarsat system for aeronautical services in the U.S. in *Aeronautical Services Order II.* In a Further Notice of Proposed Rule Making (FNPRM), the Commission is examining the prior restrictions and seeking comment on alternative arrangements. In the FNPRM the Commission proposed to establish the scope of permissible uses of Inmarsat aeronautical services in the United States. The Commission has generally promoted competition in satellite communications in both the international and U.S. domestic markets. Due to spectrum availability constraints in the L-band it was necessary to propose limits on the use of Inmarsat aeronautical services in the United States. The spectrum in which mobile satellite services (MSS) will operate is limited and appears insufficient to meet the stated spectrum requirements for the North American coverage area for American Mobile Satellite Corporation, Inmarsat and three other countries developing MSS systems—Canada, Mexico and Russia. In the future, the Commission may permit entry by Inmarsat into the U.S. domestic aeronautical market—but not until the U.S. has ensured sufficient spectrum for domestic needs without interference to communications links. The intended effect of this proceeding is to establish the manner in which Inmarsat aeronautical services will be available in the U.S. consistent with competition policies and spectrum availability.

DATES: Comments are due July 17, 1996; reply comments are due August 16, 1996.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Olga Madruga-Forti, International Bureau, Satellite and Radiocommunication Division, Satellite Policy Branch, (202) 418–0766.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making* in CC Docket 87–75, Provision of Aeronautical Services via the Inmarsat System, Commission 96–161, adopted April 9, 1996, released May 9, 1996. The Commission is considering adopting geographical restriction to Inmarsat aeronautical services similar to those established in *Aeronautical Services Order II,* 54 FR 33224 (August 14, 1989). The complete text of this FNPRM is available for inspection and copying during normal business hours in the Commission Reference Center, 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

I. Introduction

In this Further Notice of Proposed Rulemaking, the Commission initiated a further notice of proposed rulemaking concerning the geographic restrictions on the domestic use of Inmarsat-based aeronautical satellite services adopted in *Aeronautical Services Order II,* 54 FR 33224 (August 14, 1989). The Commission identified three possible models for geographic limitations: (1) Decline to authorize Inmarsat aeronautical services in U.S. airspace; (2) Authorize Inmarsat aeronautical services in the U.S. for aircraft in international flight up to the first port of entry and from the last port of departure from the U.S.; and (3) Authorize Inmarsat aeronautical services in the U.S. for all international flights including the domestic legs of international flights. Analysis and comment should consider the reliability and quality of communications and the Commission's desire to promote competition. Furthermore, in order to ensure continuity of service the Commission granted those parties already authorized to provide Inmarsat aeronautical mobile satellite service to aircraft in international flight special temporary authority to provide service to aircraft in domestic flight.

II. Background

In 1987, the Commission initiated a rulemaking to determine how aeronautical mobile satellite service (''AMSS'') via Inmarsat would be provided in the United States. In *Aeronautical Services Order II,* the Commission authorized COMSAT to provide Inmarsat aeronautical services to United States aeronautical earth stations for aircraft in flight: (1) from the United States to a foreign point; (2) from a foreign point into the United States; and (3) between any two foreign points. The Commission also specified that aircraft in flight between two U.S. domestic points may use only the domestic mobile satellite system for satellite communications to the extent the coverage area of that system permits.

3. We have generally promoted competition in satellite communications in both the international and U.S. domestic markets. The circumstances presented here pose certain limitations on the extent to which we can achieve a fully competitive U.S. market for MSS systems in the L-band. The spectrum in

which the MSS systems will operate is limited and appears insufficient to meet the stated spectrum requirements for the North American coverage area for AMSC, Inmarsat and three other countries developing MSS systems—Canada, Mexico, and Russia. In seven years of negotiations, the five systems have been unable to successfully complete coordination to operate the same frequencies on a co-coverage basis in North America and the surrounding geographical area. The five systems are vying for access to 33 MHz of spectrum in each direction but have claimed requirements for significantly more than that amount. Moreover, this problem is complicated because the current designs of the MSS systems do not permit sharing frequencies in the same geographic area or adjacent areas. Inmarsat claims a need for exclusive use of considerable spectrum over the continental United States (CONUS) for its maritime and other services. However, AMSC likely will have to use noncontiguous spectrum segments and share some of these segments with other MSS systems. We have two specific concerns about permitting Inmarsat to provide aeronautical services in the United States under these circumstances: (1) Inmarsat may claim additional spectrum needs over CONUS in order to provide this service; and (2) AMSC may receive technical interference from proximate Inmarsat channels and not be able to operate on those channels assigned to it.

4. We want competition in the U.S. market, but the first step is to ensure sufficient spectrum for the U.S. domestic MSS system to become an effective competitor. This will require successful completion of the current coordination process. Any policy that we propose here for aeronautical services must not exacerbate this situation or complicate ongoing negotiations. Therefore, we propose an approach similar to that in our l989 *Aeronautical Services Order II.* That is, we propose that Inmarsat continue to provide primarily international AMSS to the United States. We may, at a future date, permit entry by Inmarsat into the U.S. domestic aeronautical market—but, we will not propose to do so until we have successfully coordinated sufficient spectrum for the U.S. licensed domestic MSS system.[1]

5. We do not propose to adopt a policy that takes into account the economic impact on the AMSC system of Inmarsat entry into the U.S. aeronautical service market. AMSC already faces competition from other U.S. satellite systems such as Qualcomm's OmniTracs service and Orbcomm's land mobile and maritime services. It will eventually face competition from low earth orbit (LEO) systems recently authorized by the Commission.[2] There does not appear to be any reason to single out Inmarsat's economic impact on the AMSC system. Moreover, Inmarsat does not consider economic impact in evaluating the provision of aeronautical and land mobile services by non-Inmarsat satellite systems, and no longer considers it for competing maritime services.[3] The United States has been in the forefront of the effort to ensure that Inmarsat does not use economic impact analysis to prevent or discourage competition in the provision of international satellite services.

6. Accordingly, in this FNPRM, we seek comment on the circumstances in which we should permit the use of Inmarsat aeronautical satellite services in the United States. We tentatively conclude that due to spectrum availability constraints, we must limit the scope of Inmarsat aeronautical services in the United States pending completion of current negotiations. We believe that this approach will ensure that the available spectrum is adequate to serve the United States public interest in the provision of aeronautical satellite services. We specifically request parties disputing our spectrum analysis to submit detailed comments addressing this issue. We seek comment on our tentative conclusion and on defining the scope of Inmarsat aeronautical service.

7. Initially, we identify three possible models for establishing geographic limitations:

1. Decline to authorize the use of Inmarsat aeronautical services in U.S. airspace.

2. Authorize the use of Inmarsat aeronautical services, both safety and APC, via U.S. earth stations for aircraft in international flight: (a) from the United States to a foreign point; and (b) from a foreign point into the United States.

3. Authorize the use of Inmarsat aeronautical services, both safety and APC, via U.S. earth stations for aircraft in international flight: (a) from the United States to a foreign point; (b) from a foreign point into the United States; and (c) on domestic legs of international flights.

8. We seek comment on the definitions of the scope of service proposed in this FNPRM and we invite additional or alternative proposals. We believe that this approach is necessary to ensure the development of a United States domestic MSS-AMSS(R) system that has sufficient reliable spectrum to meet the needs of the public, including safety needs. We propose to adopt one of the definitions of the scope of Inmarsat aeronautical services discussed above as reasonable to fulfill this objective.

Initial Regulatory Flexibility Act Analysis

9. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis (''IRFA'') of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Further NPRM, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of the FNPRM, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 et. seq. (1981).

10. Reason for Action. This FNPRM proposes to establish regulations establishing geographical boundaries for

[1] The circumstances under which Inmarsat may offer domestic services within the U.S. are also a subject under consideration in a notice of proposed rulemaking on the provision of domestic service by non-U.S. satellites. See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Commission 96–210, adopted May 9, l996, released May 14, l996. Inmarsat could only enter the domestic aeronautical MSS market in accordance with the rules and policies adopted in this rulemaking as well as any rules or policies that may be adopted in the broader proceeding. We also defer consideration of NTIA's request in its comments for initiation of a Further NPRM on the issue of direct access to Inmarsat by multiple providers. This direct access issue is a part of a broader review of U.S. satellite policy by relevant agencies.

[2] *See e.g., Motorola Satellite Communications, Inc. Order and Authorization*, 10 F.C.C. Rcd. 2268 (International Bureau, released January 31, l995); *Loral/Qualcomm Partnership, L.P.*, 10 F.C.C. Rcd. 2333 (International Bureau, released January 31, l995); *TRW, Inc. Order and Authorization*, 10 F.C.C. Rcd. 2263 (International Bureau, released January 31, l995).

[3] Article 8 of the Inmarsat Convention provides, in general, that in order to ensure technical compatibility and avoid economic harm to the Inmarsat system, a Party shall notify Inmarsat before the Party uses separate space segment facilities for maritime purposes. The Ninth Assembly of the Inmarsat Assembly of Parties decided that no system which falls within the scope of Article 8 of the Convention shall be deemed to cause significant economic harm to the organization.

the use of Inmarsat aeronautical services in the United States.

11. Objectives. To propose rules to govern the use of Inmarsat-based aeronautical services in the United States.

12. Legal Basis. Authority as proposed for this rulemaking is contained in the provisions of the Communications Act, 47 U.S.C. §§ 151, 154, 303(r), 403, and 405.

13. Description, Potential Impact and Number of Small Entities Affected. None.

14. Reporting, Record Keeping and Other Compliance Requirements. None.

15. Federal Rules Which Overlap, Duplicate or Conflict with this Rule. None.

16. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives. None.

Paperwork Reduction Act

17. This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due August 16, 1996. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Procedural Provisions

18. This is a non-restricted notice and comment rulemaking proceeding. Ex Parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in 47 CFR § 1.1206(a).

19. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before July 17, 1996 and reply comments on or before August 16, 1996. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments and supporting comments. If you want a Commissioner to receive a personal copy of your comments and reply comments you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Commission Public Reference Center, Room 239, Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554.

20. Written comments by the public on the proposed and/or modified information collections are due July 17, 1996 and reply comments on or before August 16, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before August 16, 1996. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov. For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at 202–418–0217.

Ordering Clauses

21. Accordingly, it is further ordered that the Secretary shall send a copy of this Further Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601 et. seq. (1981).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–15268 Filed 6–14–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 64

[CC Docket No. 92–77, FCC 96–253]

Billed Party Preference for O+ InterLATA Calls

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted a Second Further Notice of Proposed Rulemaking (NPRM) seeking comment on tentative conclusions that it should establish benchmarks for the rates that consumers are asked to pay for operator service calls reflecting what consumers expect to pay for those calls and require that, if consumers will be charged rates above the benchmarks, the operator service provider (OSP) offering services through payphones and other aggregator locations disclose the applicable charges for the call to the consumer orally before connecting the call. The NPRM also seeks comment on what benchmark rates the Commission should establish, as well as on an alternative that would require all OSPs to disclose their rates orally on all operator service calls. The NPRM also solicits comment on whether the FCC should forbear from applying informational tariff filing requirements for interstate operator services, and, if not, on proposed rules and a waiver policy with respect to the filing of such tariffs. Finally, the Commission seeks comment on the best means to remedy the problem of high rates charged by some carriers that serve phones in prisons that are used by inmates to make collect calls. The proposed rule changes are intended to enable consumers to make better informed decisions whether to use a particular OSP when making a call from a payphone or other aggregator location away from home.

DATES: Written comment by the public on the Second Further Notice of Proposed RuleMaking and the proposed and/or modified information collections are due July 17, 1996. Reply comments are due on August 16, 1996. Written comments by the Office of Management and Budget (OMB) on the proposed and/or modified information collections are due on or before August 16, 1996.

ADDRESSES: Comments and reply comments should be sent to the Secretary, Federal Communications Commission, 1919 M St. N.W., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications

Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Adrien Auger, Enforcement Division, Common Carrier Bureau, (202) 418–0960. For additional information concerning the information collections contained in this Second Further Notice of Proposed RuleMaking contact Dorothy Conway at 202/418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking in Billed Party Preference, CC Docket No. 92–77, FCC 96–252, adopted June 4, 1995, and released June 6, 1996. The full text of this Commission NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M St., N.W., Washington, DC. The complete text of the NPRM may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M St., N.W., Suite 140, Washington, D.C. 20037 (202) 857–3800. The NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995, Public Law No. 104–13 (PRA). It has been submitted to OMB for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Paperwork Reduction Act

The NPRM contains proposed or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collections contained in the NPRM, as required by the PRA. Public and agency comments are due at the same time as other comments on the NPRM; OMB comments are due August 16, 1996. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

(1) *OMB Control Number:* None.
Title: Proposed benchmark system.
Type of Review: New collection.
Respondents: Business or other for-profit, including small business.
Number of Respondents: 10.
Estimated Time per Response: 2 hours.
Total Annual Burden: 20 hours.
Estimated Cost Per Respondent: $0.
Needs and Uses: Oral disclosure, at point of purchase, of the specific charges, including any surcharges, that would be charged for interstate operator services is necessary to enable consumers to make informed decisions whether to use a particular OSP when making a call from a payphone or other aggregator location.

(2) *OMB Control Number:* None.
Title: Proposed certification requirement.
Type of Review: New collection.
Respondents: Business or other for-profit, including small business.
Number of Respondents: 190.
Estimated Time per Response: 10 minutes.
Total Annual Burden: 1900 minutes.
Estimated Cost Per Respondent: $0.
Needs and Uses: Certification that an interstate operator service provider's rates and associated surcharges do not exceed FCC-established benchmarks will better protect consumers from unexpected high charges and obviate the need for the operator service provider to file and maintain an informational tariff, which does not provide potential consumers with advance notice of rate changes.

(3) *OMB Control Number: None.*
Title: Proposed reporting requirement.
Type of Review: New collection.
Respondents: Business or other for-profit, including small business.
Number of Respondents: 10.
Estimated Time per Response: 50 hours.
Total Annual Burden: 500 burden hours.
Estimated Cost Per Respondent: $0.
Needs and Uses: Currently, under 47 U.S.C. 226(h)(1)(A), OSPs must file and maintain informational tariffs of applicable charges for interstate operator services provided from payphones and other aggregator locations. Should the Commission determine that it should not forbear from enforcing this section of the Communications Act, informational tariffs specifying applicable rates and surcharges for a particular call in dollars and cents will enable consumers to ascertain whether they wish to use a particular OSP when making a payphone call.

Summary of Notice of Proposed Rule Making

I. Background

In 1992, the Commission adopted Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92–77, Notice of Proposed Rulemaking, 7 FCC Rcd 3027, 57 FR 24574 (June 10, 1992), initiating a rulemaking proceeding to consider the merits of an automated ''billed party preference'' (BPP) routing methodology for 0+ interLATA traffic. The Commission tentatively concluded that BPP is, in concept, in the public interest, but sought comments on the costs and benefits of BPP as well as on a number of aspects of how BPP might be implemented.

In 1994, the Commission adopted a Further Notice of Proposed Rulemaking, 9 FCC Rcd 3320, 59 FR 30754 (June 15, 1994), seeking further comment. The Commission found that the available evidence indicated that the benefits of BPP outweighed its costs, but that some of the data underlying its cost/benefit analysis were not as precise and current as it desired. Therefore, the Commission sought additional and updated data, further comment on its cost/benefit analysis of BPP, and proposals for less costly alternatives to BPP.

II. Discussion

Currently, interstate 0+ calls—that is, interstate calls that are made by entering a ''0'' followed by a telephone number—are routed to the OSP selected by either the premises owner or the provider of the phone. The Commission found that this has led many callers to be charged substantially higher rates than they expected. Therefore, the Commission now tentatively concludes that it should adopt a benchmark reflecting what consumers expect to pay for interstate 0+ calls and require OSPs to orally disclose the total charges for which consumers will be liable for a call if those charges are above the benchmark. The Commission believes that this will help ensure that consumers are not surprised by unexpectedly high charges for their 0+ calls, but rather, that consumers can make better informed choices about which OSP to use for their calls.

The Commission also seeks comment on whether it should, alternatively, require all OSPs to disclose the prices for all 0+ calls, thereby avoiding the need to establish benchmarks, or whether the cost of such a disclosure requirement to OSPs, and ultimately to consumers, would exceed the benefit to

consumers, especially with regard to 0+ calls priced at or below levels that consumers generally expect. The Commission also seeks comment on, if it establishes a benchmark, where it should be set. The NPRM describes a number of benchmark options proposed by interested parties, including the average rate charged by AT&T, MCI, and Sprint, a level 15-percent above that average, and a fixed set of rates proposed by an OSP industry coalition. The Commission also considers several qualifications to the benchmark that would make OSP compliance administratively easier.

The Commission also seeks comment on whether, under the recently-enacted Telecommunications Act of 1996, it must forbear from applying informational tariff filing requirements and, if not, on proposed rules and a waiver policy with respect to the filing of such tariffs. Comments are also requested on whether the public interest would be better served by means other than BPP for calls from inmate-only telephones in prisons and other correctional institutions.

III. Comments and Ex Parte Presentations

All interested parties may file comments on the issues set forth in the NPRM, on which comment is specifically sought, by July 17, 1996, and reply comments by August 16, 1996. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file in accordance with the ordering clauses below. Parties are invited to submit, in conjunction with their comments or replies, proposed text for rules that the Commission could adopt in this proceeding. Specific rule proposals should be filed as an appendix to a party's comments or reply.

This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See, generally,* 47 CFR 1.1202, 1.1203, and 1.1206(a).

IV. Conclusion

The NPRM tentatively concludes that the FCC should: (1) establish benchmarks for OSPs' rates and associated charges that reflect consumers' expectations; and (2) require OSPs whose charges and related aggregator surcharges or premises-owner fees exceed such benchmarks to disclose orally to consumers, before connecting a call, the total charges for which consumers would be liable. In the alternative, the FCC seeks comment on whether it should require OSPs to give specific rate information for all 0+ calls before connecting the calls. It also solicits comment on proposed rules with respect to the filing of informational tariffs for interstate operator services and the extent to which it must or may forbear from enforcing the requirements for such tariffs. Finally, it solicits comment whether the public interest would be better served by alternative remedies than BPP for high rates charged by some carriers serving prisons.

V. Regulatory Flexibility Analysis

Reason for Action

The Commission is issuing the NPRM to consider alternatives to the implementation of Billed Party Preference by local exchange carriers, to protect consumers from excessive charges in connection with interstate operator services, and to help ensure that consumers are aware of the price of a long distance operator service call before incurring charges.

Objectives. The objective of the NPRM is to propose requirements regarding charges and surcharges applicable to interstate operator services and to provide an opportunity for public comment thereon.

Legal Basis. Sections 1, 4(i), 4(j), 201–205, 226 and 228 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 226, 228.

Description, potential impact, and number of small entities affected. The proposed rules will require that interexchange carriers' Informational Tariffs, filed pursuant to Section 226 of the Communications Act, contain specific rates for their operator services. Hundreds of small operator services companies may have to file substitute tariffs and will have to implement other information disclosure requirements if their rates, and related payphone premises-owners' fees or aggregator surcharges, substantially exceed the rates charged by AT&T, MCI and Sprint. Small entities may feel some economic impact in additional printing costs, message production and recording costs due to these requirements.

Reporting, record-keeping, and other compliance requirements. The proposed rules would require carriers charging rates above an established benchmark to provide audibly to consumers the price, or maximum price, of the call before connecting a call.

Federal rules that overlap, duplicate, or conflict with the Commission's proposal. None.

Any significant alternatives minimizing impact on small entities and consistent with stated objectives. None apparent at this time.

Comments are solicited. The FCC requests written comments on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in the NPRM, but they must have a separate and distinct heading designating them as responses to this Regulatory Flexibility Analysis. The FCC is sending a copy of the NPRM to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act. *See* 5 U.S.C. 601, *et seq.*

VI. Ordering Clauses

1. Accordingly, It is Ordered, pursuant to Sections 1, 4(i), 4(j), 10, 201–205, 218 and 226 of the Communications Act of 1934, as amended, 47 U.S.C. § 151, 154(i), 154(j), 160, 201–205, 218, 226, that a Second Further Notice of Proposed Rule Making is Issued, proposing the amendment of 47 CFR Part 64 as set forth below.

2. It is further ordered that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, comments Shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before July 17, 1996. Reply comments should be filed no later than August 16, 1996. To file formally in this proceeding, participants must file an original and six copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleadings with the Enforcement Division, Common Carrier Bureau, Room 6008, 2025 M Street N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Room 140, 2100 M Street, N.W., Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

3. It is further ordered that, in order to facilitate review of comments and reply comments, both by parties and by Commission staff, we require that comments and reply comments include a summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's Rules. *See* 47 CFR § 1.49. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to the formal filing requirements addressed above. Parties submitting diskettes should submit them to Adrien Auger of the Common Carrier Bureau, 2025 M Street, N.W., Room 6120, Washington, D.C. 20554. Such submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

4. It is further ordered that any written comments by the public, as provided for in the Paper Reduction Act of 1995, on the proposed and/or modified information collections are due July 17, 1996. Written comments must be submitted by the Office of Management and Budget on the proposed and/or modified information collections on or before August 16, 1996. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

5. It is further ordered, that the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures in this docket if necessary to provide for a more complete record and a more efficient proceeding.

6. It is further ordered, that the Secretary shall mail a copy of this Second Further Notice of Proposed Rule Making to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 603(a)(1981). The Secretary shall also cause a summary of this NPRM to appear in the Federal Register.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 64 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Section 64.703 is amended by revising paragraph (c) to read as follows:

§ 64.703 Consumer information.

* * * * *

(c) Information disclosure.

(1) Informational tariffs filed pursuant to 47 U.S.C. § 226(h)(1)(A) shall contain specific rates expressed in dollars and cents for all interstate operator services of the carrier and shall also contain applicable surcharges, if any, billed on behalf of aggregators by the carrier or another billing agent.

(2) Surcharges billed on behalf of aggregators, if any, shall be specified in informational tariffs in dollars and cents.

(3) In order to remove all doubt as to their proper application, all informational tariffs must contain clear and explicit explanatory statements regarding the rates, *i.e.*, the tariffed price per unit of service, and the regulations governing the offering of service in that tariff.

(4) Operator services providers whose charges and any applicable aggregator surcharge for any call exceed any benchmark established by the Commission, or exceed benchmarks established by the Commission for the initial minute or additional minutes, shall provide, at no charge before the call is connected, either the specific charges, including any aggregator surcharge or premises owner fee, applicable to that call, or the maximum charges, including any aggregator surcharge or premises owner fee, that the consumer may be billed for that call.

(5) Informational tariffs shall be accompanied by a cover letter, addressed to the Secretary of the Commission, explaining the purpose of the filing.

(i) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, Pennsylvania.

(ii) Copies of the cover letter and the attachments shall be submitted to the Secretary's Office, the Commission's contractor for public records duplication, and the Chief, Tariff Review Branch.

(6) Any changes to the tariff shall be submitted under a new cover letter with a complete copy of the tariff, including changes.

(i) Changes to a tariff shall be explained in the cover letter but need not be symbolized on the tariff pages.

(ii) Revised tariffs shall be filed pursuant to the procedures specified in subsection 64.703(c)(5).

* * * * *

[FR Doc. 96–15147 Filed 6–14–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 96–114; RM–8786]

Radio Broadcasting Services; Fort Bragg and Willits, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Henry Radio Company, licensee of Station KLLK-FM, Fort Bragg, California, requesting the reallotment of Channel 228B from Fort Bragg to Willits, California, and modification of the license for Station KLLK-FM to specify Willits as its community of license, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates for Channel 228B at Willits are 39–24–36 and 123–21–12.

DATES: Comments must be filed on or before July 29, 1996, and reply comments on or before August 13, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard M. Riehl, Esq., Haley, Bader & Potts, P.L.C., 4350 North Fairfax Dr., Suite 900, Arlington, VA 22203–1633.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–114, adopted May 3, 1996, and released June 5, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–15209 Filed 6–14–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–122; RM–8795]

Radio Broadcasting Services; Riverdale, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Happy Nice Valley Broadcasting (''petitioner'') seeking the allotment of FM Channel 252A to Riverdale, California, as that locality's first local aural transmission service. Petitioner is requested to provide additional information to establish Riverdale's status as a community for allotment purposes. Coordinates used for this proposal are 36–20–39 and 119–53–59.

DATES: Comments must be filed on or before July 29, 1996, and reply comments on or before August 13, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Happy Nice Valley Broadcasting, Attn: Joe S. Mauk, 365 W. Menlo Avenue, Fresno, CA 93704.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–122, adopted May 17, 1996, and released June 5, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–15207 Filed 6–14–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–121; RM–8806]

Radio Broadcasting Services; Forestville, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Lyle Robert Evans d/b/a The Radio Company proposing the allotment of Channel 281A to Forestville, Wisconsin, as that community's first local FM service. Canadian concurrence has been requested for this allotment at coordinates 44–41–37 and 87–27–16. There is a site restriction 2.1 kilometeres (1.3 miles) east of the community.

DATES: Comments must be filed on or before July 29, 1996, and reply comments on or before August 13, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Lyle Robert Evans d/b/a The Radio Company, 1296 Marian Lane, Green Bay, Wisconsin 54304.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–121, adopted May 20, 1996, and released June 5, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–15208 Filed 6–14–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96- 53; Notice 1]

RIN 2127–AG41

Federal Motor Vehicle Safety Standards; Rear View Mirrors

AGENCY: National Highway Traffic Safety Administration (NHTSA), Transportation.

ACTION: Request for Comments.

SUMMARY: NHTSA has granted a petition for rulemaking from Mr. Dee Norton, who petitioned the Agency to require convex cross view mirrors on the left rear top corner of the cargo box of stepvan and walk-in style delivery and service trucks. NHTSA's analysis of the petition and the backup accident data concludes that this particular solution is only one of many possible accident prevention measures. While it is possible that mirrors can be a cost-effective solution, no performance specifications for these mirrors yet exist. The agency has research underway on this and other means to reduce such deaths and injuries, particularly for children less than five years old and the elderly, who both are over represented in the fatality numbers. The agency believes it is premature to begin rulemaking until we obtain information on the experience of fleets which have installed rear cross-view mirrors and ask other key questions.

DATES: Comments must be received on or before October 15, 1996.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Mr. Jere Medlin, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, SW, Washington, D.C. 20590. Mr. Medlin's telephone number is: (202) 366–5276. His facsimile number is (202) 366–4329. For legal issues: Mr. Paul Atelsek, Rulemaking Division, Office of Chief Counsel, NHTSA, 400 Seventh Street, S.W. Washington, D.C. 20590. Mr. Atelsek's telephone number is (202) 366–5260, and his FAX number is (202) 366–3820. Please note that written comments should be sent to the Docket Section rather than faxed to the above contact persons.

SUPPLEMENTARY INFORMATION:

I. Background

By letter dated March 20, 1995, Mr. Dee Norton of Seattle, Washington petitioned the agency to issue an amendment for 49 CFR 571.111, (Standard No. 111) to require convex cross view mirrors on the left rear top corner of the cargo box of stepvan and walk-in style delivery and service trucks. Mr. Norton's petition arose out of a desire to prevent the kind of fatal crash that caused the death of his grandson. C.J. Norton, Mr. Norton's grandson, died on May 18, 1994, when he was struck and backed over by a diaper delivery service truck that was backing from a stall in an apartment complex parking lot. Mr. Norton stated in his petition that the truck was equipped with side-mounted rearview mirrors required by Standard No. 111, but that those mirrors did not provide the driver with a view of the area immediately behind the truck. Mr. Norton stated that, without looking behind the truck, the driver backed up and struck his grandson, not knowing that the child was in the way.

Mr. Norton tried unsuccessfully to get Washington State to enact a law to require delivery vehicles to use rear-mounted cross view mirrors. His state believes that federal law prohibits it from issuing any laws that are different from federal laws on the subject of mirrors. As a consequence, Mr. Norton petitioned NHTSA for changes to Standard No. 111.

The agency has reviewed the circumstances associated with the petitioner's desired solution, and notes that the agency has been conducting research to investigate the feasibility of equipping motor vehicles with cost-effective countermeasures to assist drivers in more safely carrying out backing, lane change and merging maneuvers including the maneuvers described by the petitioner. The objectives are to determine the performance of one or more feasible countermeasures and to define specifications in performance terms without constraining the solutions to particular devices or technologies.

NHTSA has been conducting and continues to conduct research to determine alternative countermeasures for preventing backing crashes. This research has focused on external auditory alarms (''An Audible Automobile Back-up Pedestrian Warning Device—Development and Evaluation'', DOT-HS–802–083, November 1976) as well as in-vehicle warning systems and mirrors. External alarms have been found to be ineffective deterrents for very young children, who do not understand the sound and may even be attracted to the noise. In-vehicle warning systems that have been studied provide drivers with in-vehicle alarms triggered by the detection of nearby objects detected by the rear facing sensors (typically ultrasonic, radar, or infrared). The agency recently tested six rear object detection systems and found that object detection technology is still in the early stages of its development (''Hardware Evaluation Of Heavy Truck Side And Rear Object Detection Systems'', SAE Paper No. 951010, W. Riley Garrott, Mark A. Flick, and Elizabeth N. Mazzae) . One other system, a unit that costs over $900 and uses microwave radar technology is in voluntary use in some school districts, to detect a moving child in front of a stationary school bus. The agency's tests (''An Evaluation of Electronic Pedestrian Detection Systems For School Buses'', SAE Paper No. 960518, Scott A. Johnston, Elizabeth N. Mazzae, and W. Riley Garrott) show that such systems were intended as a supplement, not a replacement, for cross view mirrors and were designed to work only on stationary vehicles. The agency will continue to evaluate the effectiveness and performance of these types of countermeasures as new technology becomes available.

Used on certain commercial and recreational vehicles, rear video cameras can provide the driver with a view of the blind spot, but the expense of these systems limits their use. Some vehicles use rear mounted convex mirrors to help the driver see objects and pedestrians in the area directly behind the vehicle that is not covered by the currently required mirror systems. However, the small image size in the mirror, the distortion of the image, and the task of using the left side mirror to see the image in the rear mounted mirror may make it difficult for drivers to reliably detect objects and small pedestrians, especially at night and in adverse weather. The agency is initiating a research program to collect data on the extent of obstructed view areas behind commercial and passenger vehicles and to determine the extent to which low cost mirror systems can improve the driver's view in that area. It may take two years to complete this research, data collection, and analysis. Also, the agency has requested information from some commercial fleet owners to gain insight on the extent of

the backing problem and to learn of the experiences that some have had with rear-mounted convex mirrors. As the agency learns more about the extent of this safety problem and potential solutions, it will be in a better position to consider whether rulemaking to mandate performance-oriented requirements for preventing backup crashes is appropriate.

Additionally, for the past two years the agency has enlisted the assistance of the U. S. Consumer Product Safety Commission and its National Electronic Injury Surveillance System to gather data on the involvement of children with motor vehicles in nonhighway injuries and fatalities. This effort is not yet completed. When it is completed in 1997, the Agency may be able to estimate the size of the safety problem better than it can today.

The agency finds that the State of Washington has misinterpreted how federal preemption affects the ability of the state to act. It is true that under 49 U.S.C. 30103(b), no State may enact or continue in effect a standard covering the same aspect of performance as an FMVSS unless it is identical to the FMVSS. However, there is no federal requirement addressing the visibility of the area directly and immediately behind the vehicle in question. Thus, NHTSA does not concur with the State of Washington's conclusion that the preemption clause prohibits Washington, or any other state, from requiring the use of rear-mounted cross view mirrors on any motor vehicle. While it is true that nonidentical state standards would become preempted if NHTSA did adopt a performance requirement for cross view mirrors, NHTSA would certainly consider the existing state laws in doing so.

Thus, it is possible for the petitioner and others to seek solutions at the state level, and those solutions can have greater immediate effect than any Federal action. Because States regulate vehicles-in-use and the actions of drivers, a solution at the State level of adding rear-mounted cross view mirrors to delivery service vehicles and restrictions on how delivery service operations are conducted, would affect all existing subject vehicles in states that chose to implement such regulations. A Federal rule only would affect new trucks once implemented and could take more than twenty-five years (ref. ''Updated Vehicle Survivability and Travel Mileage Schedules'', DOT-HS–808–339, November ,1995) before the full benefits would be realized because of the slow rate of fleet replacement. This study showed that 12% of light trucks were still in use 25 years later.

II. Questions on Which Comment is Requested

A. For Fleet Users of Rear Cross-View Mirrors

1. Have your vehicles' accident rates in backing incidents decreased since you equipped your fleet with rear cross view mirrors? Please provide any available data on your backing crash rates.

2. What percentage of your backing incidents occur off the public roadway?

3. Under what conditions, if any, are these mirrors difficult to use or perhaps even unusable?

a. Dark days?

b. Rainy days?

c. Shadows behind the vehicle?

d. At night with the backup lamps?

e. Other adverse conditions; please describe.

4. What comments, if any, have your drivers made regarding their use of rear cross view mirrors? Are they generally in favor of them? Please explain.

5. To what extent do your drivers rely on cross view mirrors while backing? Should the driver directly inspect the area behind the truck before entering the vehicle and backing?

6. What depth of field (behind the vehicle) can these mirrors provide? Does this need to be increased to allow adequate reaction time when backing?

7. Would a depth of field of six feet be practicable and economically feasible on such mirrors?

8. Is image distortion a problem on existing rear cross-view mirrors?

9. Are reductions in insurance premiums available for vehicles equipped with rear cross view mirrors? How far do any such reductions go in offsetting the cost of the mirror and its installation?

(The next three questions are for fleet operators that have installed rear cross-view mirrors.)

10. Why did your fleet install rear cross-view mirrors?

11. What specific mirrors were used and on what specific vehicles were these mirrors installed?

12. What were the costs of the mirrors and their installation?

B. General

1. NHTSA must analyze both the safety benefits associated with new or added regulations and their costs. The agency therefore requests cost estimates for rear cross-view mirrors expressed as the increase in the cost of a new truck (say a full-size commercial van, a step-van, high cube van, or straight truck) with such a mirror installed. Are these costs significantly different for the installation of the mirrors on existing vehicles?

2. Do these mirrors present any practical problems, such as:

a. Are there any trucks up to 26,000 pounds GVWR that cannot accommodate such mirrors?

b. Are there loading dock interference problems?

c. Are there significant driver training changes?

d. Are there mirror vibration problems or maintenance problems?

e. Are some designs of rear cross-view mirrors vastly superior in performance to others?

f. Are depth of field or other parameters on these mirrors in need of improvement?

g. Are there any alternatives to these mirrors that are as inexpensive as the mirrors desired by the petitioner?

III. Procedures for Filing Comments

Interested persons are invited to submit comments on this request for comment. It is requested but not required that 10 copies be submitted. Comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received after the comment due date will be considered as suggestions for any future rulemaking action. Comments on the request for comment will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing

date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rule's docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: June 12, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–15325 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of public comment period.

SUMMARY: The Service issued a Draft Environmental Alternatives Analysis (EAA) (February 23, 1996, 61 FR 6964) for the proposed special rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington, which is currently out for public comment. The proposed special rule was published in the Federal Register on February 17, 1995 (60 FR 9484). The comment period for both documents was scheduled to end on June 3, 1996. The intent of this document is to extend the comment period to June 27, 1996.

The Service is briefly extending the comment period in order to accept the comments of The Resources Agency of California, and invites other interested parties who have not yet submitted comments to do so.

DATES: The comment period for written comments is extended until June 27, 1996.

ADDRESSES: Comments and materials concerning this Draft Environmental Alternatives Analysis and the proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Office of Technical Support for Forest Resources, 333 SW. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326–6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smitch, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE., Suite 102, Olympia, Washington 98501, (206/534–9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 SW. 1st Avenue, Portland, Oregon 97232–4181, (503/326–6218).

SUPPLEMENTARY INFORMATION: The Service has prepared a draft document called an Environmental Alternatives Analysis (EAA) that describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal lands in Washington and California. Each alternative would revise to varying degrees the Federal prohibitions and exceptions regarding the incidental take of spotted owls on non-Federal lands in California and Washington. The proposed rule, analyzed in the Draft EAA as Alternative 3, was published in the Federal Register on February 17, 1995 (60 FR, No. 33, Page 9484).

The Service's Draft EAA, including all maps, tables, charts, and graphs, remains available on the Internet's World Wide Web at http://www.r1.fws.gov/4deaa/welcome.html.

Dated: June 10, 1996.

H. Dale Hall,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 96–15123 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No.950830222–6103–02; I.D. 011696D]

RIN 0648–AH89

Sea Turtle Conservation; Revisions to Sea Turtle Conservation Requirements; Restrictions to Shrimp Trawling Activities; Reopening of Comment Period

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

ACTION: Proposed rule; reopening of comment period; notice of availability.

SUMMARY: On April 24, 1996, NMFS published a proposed rule to amend the regulations protecting sea turtles to enhance their effectiveness in reducing sea turtle mortality resulting from shrimp trawling in the Atlantic and Gulf Areas in the southeastern United States. In response to several requests for an extension of the comment period, NMFS is reopening the comment period through July 15 to provide further opportunity to submit comments on the proposed rule and to review additional analyses, including the preliminary report scheduled to be submitted to NMFS by June 28, 1996, by the sea turtle expert working group.

DATES: Comments on this proposed rule must be submitted on or before July 15, 1996.

ADDRESSES: Comments on this proposed rule and requests for a copy of the sea turtle expert working group report should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Therese A. Conant, 301–713–1401.

SUPPLEMENTARY INFORMATION: On April 24, 1996, NMFS published a proposed rule (61 FR 18102) to amend the regulations at 50 CFR 227.72(e) protecting sea turtles to enhance their effectiveness in reducing sea turtle mortality resulting from shrimp trawling in the Atlantic and Gulf Areas in the southeastern United States. The background and rationale for the proposed amendments were contained in the preamble of the proposed rule and are not repeated here. The comment period for the proposed rule closed on June 10, 1996. However, NMFS is reopening the comment period through July 15 to provide further opportunity to submit comments on the proposed rule and to review additional analyses, including the preliminary report scheduled to be submitted to NMFS by June 28, 1996, by the sea turtle expert working group. The formation of this group of scientists to analyze existing databases to determine sea turtle population abundance, population trends, and sustainable take levels was a requirement of the November 14, 1994, biological opinion. The report will be made available for public review and distributed upon request when it is submitted to NMFS (see **ADDRESSES**).

Authority: 16 U.S.C. 1531–1544; and 16 U.S.C. 742a *et seq.*, unless otherwise noted.

Dated: June 11, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–15324 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 669

[I.D. 060496E]

Caribbean Fishery Management Council; Public Hearing

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

ACTION: Public hearing; request for comments.

SUMMARY: The Caribbean Fishery Management Council (Caribbean Council) will convene one public hearing on alternatives for closed areas to protect spawning aggregations of red hind in an area off Mayaguez, PR.

DATES: Written comments will be accepted on or before July 15, 1996. The public hearing will be held on June 19, 1996, from 7 p.m. to 10 p.m.

ADDRESSES: Written comments should be sent to, and copies of a document summarizing the management alternatives to be considered are available from, Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Ave., Suite 1108, San Juan, PR 00918. The hearing will be held at the Joyuda Plaza Hotel, Cabo Rojo, PR.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolon, 809–766–5926; Fax: 809–766 6239.

SUPPLEMENTARY INFORMATION:

Background

The Caribbean Council will be holding a public hearing on alternatives for closed areas to protect the spawning aggregations of the red hind grouper, which usually form during the period December 1 through February 28 of each consecutive year.

The current regulations implementing the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands establish a closed area off Mayaguez, PR, to protect the spawning grounds of this grouper species. Recent information obtained by the Caribbean Council indicates that the red hind aggregations are taking place in other sites outside the present closed area. The Caribbean Council will be considering closed area alternatives that would be more effective in protecting the red hind spawning aggregations while resulting in fewer adverse regulatory impacts to fishers.

Alternatives under consideration include: (1) No action (i.e., keep the same area of seasonal closure (Amendment 2 of the Reeffish FMP, 1993)); (2) closing an area of 1/2 mile (2.41 km) radius around ''Buoy 8'' to all fishing from December 1 to February 28 of each fishing year; (3) closing an area of 1/2 mile (2.41 km) radius around ''Buoy 6'' to all fishing from December 1 to February 28 of each fishing year; (4) closing an area of 1/2 mile (2.41 km) radius centered around a buoy to be deployed in the area known as ''El Bajo de Sico'' to all fishing between December 1 to February 28 of each fishing year; and (5) closing all three areas identified above to all fishing between December 1 and February 28 of each fishing year.

Special Accommodations

This hearing is physically accessible to people with disabilities. For more information or requests for sign language interpretation and/or other auxiliary aids please contact Mr. Miguel A. Rolon at 809–766–5926 (see **ADDRESSES**) at least 5 days prior to the hearing date.

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

Dated: June 11, 1996.

Richard H. Schaefer,

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

[FR Doc. 96–15232 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 117
Monday, June 17, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–032–1]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of a currently approved information collection in support of regulations under the Animal Welfare Act governing the humane handling, care, treatment, and transportation of certain animals by dealers, research institutions, exhibitors, carriers, and intermediate handlers.

DATES: Comments on this notice must be received by August 16, 1996 to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 96–032–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 96–032–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION: For information on the regulations and standards governing the humane handling, care, treatment, and transportation of certain animals by dealers, research institutions, exhibitors, carriers, and intermediate handlers, contact Dr. Debra Beasley, Senior Animal Care Staff Officer, Regulatory Enforcement and Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, (301) 734–7833; or e-mail: DBeasley@aphis.usda.gov. For copies of the proposed collection of information, contact Ms. Cheryl Jenkins, Aphis' Information Collection Coordinator, at (301) 734–5360.

SUPPLEMENTARY INFORMATION:

Title: Animal Welfare.

OMB Number: 0579–0036.

Expiration Date of Approval: October 31, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: Regulations and standards have been promulgated under the Animal Welfare Act (the Act) to promote and ensure the humane care and treatment of regulated animals under the Act. Title 9, parts 1 through 3, of the Code of Federal Regulations (CFR) contain regulations and standards for the care and handling of certain animals covered under the Act. The regulations in 9 CFR part 2 require documentation of specified information concerning the humane handling, care, treatment, and transportation of certain animals by dealers, research institutions, exhibitors, carriers, and intermediate handlers. The regulations also require that facilities that use animals for regulated purposes obtain a license or register with the U.S. Department of Agriculture (USDA).

The Act is enforced by the Animal and Plant Health Inspection Service (APHIS), USDA, which performs unannounced inspections of regulated facilities. A significant component of the inspection process is review of mandatory records that must be established and maintained by regulated facilities. The information contained in these records is used by APHIS inspectors to ensure that dealers, research facilities, exhibitors, intermediate handlers, carriers, pounds, and shelters comply with the Act and regulations.

Facilities must make and maintain records that contain official identification for all dogs and cats, and certification of those animals received from pounds, shelters, and private individuals. These records are used to prevent the intentional use of stolen pets for regulated activities. Records must also be maintained for animals other than dogs and cats when the animals are used for purposes regulated under the Act.

Research facilities must also make and maintain additional records for animals covered under the Act that are used for teaching, testing, and experimentation. This information is used by APHIS personnel to review the research facility's animal care and use program concerning animal activities regulated under the Act.

The reporting and recordkeeping requirements contained in 9 CFR part 2 are necessary to enforce regulations intended to ensure the humane care and treatment of covered animals. The collected information is also used by APHIS to provide a mandatory annual Animal Welfare Enforcement report to Congress.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.167 hours per response.

Respondents: Research facilities, ''A'' and ''B'' dealers, exhibitors, carriers, intermediate handlers, pounds, and shelters.

Estimated Number of Respondents: 8,564.

Estimated Number of Responses per Respondent: 10.152.

Estimated Total Annual Burden on Respondents: 86,945 hours.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection.

Done in Washington, DC, this 11th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–15280 Filed 6–14–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Retail Sales and Inventory Survey.

Form Number(s): B–101(97), 102(97), 103(97), 111(97), 112(97), 113(97), 114(97).

Agency Approval Number: 0607–0717.

Type of Request: Revision of a currently approved collection.

Burden: 30,693 hours.

Number of Respondents: 11,060.

Avg Hours Per Response: 14 minutes.

Needs and Uses: The Current Retail Sales and Inventory Survey provides estimates of monthly sales and end–of–month merchandise inventories for retail stores in the United States by selected kinds of business. Sales and inventory data provide a current statistical picture of the retail portion of consumer activity. Monthly estimates of changes in sales and the value and levels of inventory are used by government and non–government analysts in gauging economic trends and formulating economic policy. The current sampling methodology for this survey uses both fixed and rotating panels. Larger companies report monthly in the fixed panel. Most small and medium sized companies report every three months and are asked to report data for the two most recent months. The current design is susceptible to large revisions in preliminary–to–final estimates due to imbalances in the rotating panels and differential response bias between current and previous month data. We will implement a totally fixed panel design for the next sample revision starting in early 1997 in order to minimize these revisions. The sample redesign will also permit more accurate identification of unusual responses and will facilitate reconciling differences with other Census Bureau surveys. We plan to gauge and monitor the effects of the sample redesign on an ongoing basis.

Affected Public: Businesses or other for–profit institutions.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Dan Haigler, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 6, 1996.

Dan Haigler,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–15241 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–07–F

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Monthly Wholesale Trade Survey.

Form Number(s): B–310.

Agency Approval Number: 0607–0190.

Type of Request: Revision of a currently approved collection.

Burden: 4,614 hours.

Number of Respondents:3,298.

Avg Hours Per Response: 7 minutes.

Needs and Uses: The Bureau of the Census conducts the Monthly Wholesale Trade Survey to obtain sales and inventory data from a sample of merchant wholesalers. From the data we gather, we produce statistics on wholesale sales, end–of–month inventories, methods of inventory valuation, and stock/sales ratios. The Bureau of Economic Analysis uses these statistics in its calculations of the gross domestic product (GDP) and to improve the reliability of inventory adjustments applied in the quarterly GDP estimates. The Bureau of Labor Statistics uses these statistics as input to its Producer Price Indexes and in developing productivity measurements. Other government agencies and businesses use these statistics for planning and development and to gauge the current trends of the economy. Current data on wholesale trade also enable us to make comparisons with the five–year wholesale census data. The current sampling methodology for this survey uses both fixed and rotating panels. Larger companies report monthly in the fixed panel. Most small and medium sized companies report every three months and are asked to report data for the two most recent months. The current design is susceptible to large revisions in preliminary–to–final estimates due to imbalances in the rotating panels and differential response bias between current and previous month data. We will implement a totally fixed panel design for the next sample revision starting in early 1997 in order to minimize these revisions. The sample redesign will also permit more accurate identification of unusual responses and will facilitate reconciling differences with other Census Bureau surveys. We plan to gauge and monitor the effects of the sample redesign on an ongoing basis.

Affected Public: Businesses or other for–profit institutions, Federal Government, State, local or tribal government.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Dan Haigler, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 6, 1996.

Dan Haigler,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–15242 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–07–F

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1997 Economic Census Covering Retail Trade, Foodservices, Drinking Places, and Accommodations Sectors

Form Number(s): Various.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 993,000 hours in FY 1998; 1 hour in FY 1996&7.

Number of Respondents: 1,291,003.

Avg Hours Per Response: 46 minutes.

Needs and Uses: The economic census is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public. The 1997 Economic Census will cover virtually every sector of the U. S. economy including more than 1.1 million retail establishments, and more than .5 million foodservices, drinking places, and accommodations establishments. The information collected from businesses in this sector of the economic census will produce basic statistics by kind of business for number of establishments, sales, payroll, and employment. It also will yield a variety of subject statistics, including sales by merchandise line, sales by class of customer, and other industry–specific measures.

Affected Public: Businesses or other for–profit, individuals or households, not–for–profit institutions, state, local or tribal government.

Frequency: Every 5 years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Dan Haigler, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 10, 1996.

Dan Haigler,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–15243 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–07–F

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1997 Economic Census Covering the Wholesale Trade Sector.

Form Number(s): Various.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 634,400 hours in FY 1998; 1 hour in FY 1996&7.

Number of Respondents: 540,000.

Avg Hours Per Response: 1 hour and 10 minutes.

Needs and Uses: The economic census is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public. The 1997 Economic Census will cover virtually every sector of the U. S. economy including more than .5 million wholesale establishments. The information collected from businesses in this sector of the economic census will produce basic statistics by kind of business for number of establishments, sales, payroll, and employment. It also will yield a variety of subject statistics, including sales by merchandise line, sales by class of customer, and other industry–specific measures.

Affected Public: Businesses or other for–profit, individuals or households, not–for–profit institutions, state, local or tribal government.

Frequency: Every 5 years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Dan Haigler, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 10, 1996.

Dan Haigler,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–15244 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–07–F

Bureau of the Census

[Docket No. 960529150–6150–01]

Survey of Environmental Products and Services

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: Notice is hereby given that the Bureau of the Census is considering a proposal to conduct the Survey of Environmental Products and Services for the year 1995 under the authority of Title 13, United States Code, Sections 131 and 193. On the basis of information and recommendations received by the Bureau of the Census and other agencies, the data have significant application to the needs of the public and industry.

DATES: Any suggestions or recommendations concerning the proposed survey should be submitted in writing by July 17, 1996 in order to receive consideration.

ADDRESSES: Director, Bureau of the Census, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT: Elinor Champion, Chief, Environmental, Technical and Innovation Branch, Manufacturing and Construction Division (301) 457–4683.

SUPPLEMENTARY INFORMATION: The primary users of these data will be numerous Government agencies, including the Bureau of the Census, Environmental Protection Agency, and the International Trade Administration. Other users include business firms, academics, trade associations, and research and consulting organizations. The data will be used to measure and analyze the environmental industry and serve as a tool to promote international trade of environmental goods. The

information to be developed from this survey is necessary for comprehensive and detailed measurement of environmental goods and services. The data collected in this survey will be within the general scope and nature of those inquiries covered by the economic census.

This survey has been submitted to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act, Public Law 104–13. Copies of the proposed form are made available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Dated: May 29, 1996.

Martha Farnsworth Riche,

Director. Bureau of the Census.

[FR Doc. 96–15231 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–07–P

Foreign-Trade Zones Board

[Order No. 814]

Grant of Authority; Establishment of a Foreign-Trade Zone; Fort Myers, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Lee County Port Authority (the Grantee) has made application to the Board (FTZ Docket 35–94, 59 FR 59398, 11/17/94), requesting the establishment of a foreign-trade zone at two sites in Fort Myers, Florida, at and adjacent to the Southwest Florida International Airport, a Customs user fee airport; and,

Whereas, notice inviting public comment has been given in the Federal Register, and the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 213, at the sites described in the application, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 5th day of June 1996.

Foreign-Trade Zones Board.

Michael Kantor,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–15319 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket No. 48–96]

Foreign-Trade Zone No. 85, Everett, WA; Reissuance of Grant of Authority

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Puget Sound Foreign-Trade Zone Association, grantee of FTZ 85, Everett, Washington, requesting the reissuance of the grant of authority for FTZ 85 to the Port of Everett, a Washington public corporation, which has concurrently requested to become the new grantee of the zone project. The application was submitted pursuant to the provisions of the FTZ Act, as amended (U.S.C. 81a–81u) and the regulations of the Board (15 CFR Part 400). It was formally filed on May 31, 1996.

Public comment (original and 3 copies) is invited from interested parties (see FTZ Board address below). The closing date for their receipt is July 17, 1996.

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 10, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–15320 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[Docket No. 950407092–6099–02]

RIN: 0648–XX12

Climate and Global Change Program

AGENCY: Office of Global Programs, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and longstanding capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agency contributions to that national effort.

DATES: Strict deadlines for submission to the FY 1997 process are: Letters of intent must be received at OGP no later than July 19, 1996. Full proposals must be received at OGP no later than September 20, 1996.

Applicants who have not received a response to their letter of intent by August 9, 1996 should contact the program office. The time from target date to grant award varies with program area. We anticipate that review of full proposals will occur during late 1996 through early 1997 and funding should begin during the spring of 1997 for most approved projects. May 1, 1997, should be used as the proposed start date on proposals, unless otherwise directed by the appropriate Program Officer.

Applicants should be notified of their status within 6 months. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Proposals may be submitted to: Office of Global Programs, National Oceanic and Atmospheric Administration, 1100 Wayne Avenue, Suite 1225, Silver Spring, MD 20910–5603.

FOR FURTHER INFORMATION CONTACT: Irma dePree at the above address, or at phone: (301) 427–2089 ext. 17, fax: (301) 427–2073, Internet: dePree@ogp.noaa.gov.

SUPPLEMENTARY INFORMATION:

Funding Availability

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Because of ongoing debates on the Federal budget, it is uncertain how much money will be available through this announcement. Actual funding levels will depend upon the final FY 1997 budget appropriations. This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposed projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to NOAA are not available under this announcement. Matching share is not required by this program.

Program Authority

Authority: 49 U.S.C. App. 1463; 33 U.S.C. 883d, 883e; 15 U.S.C. 2904; 15 U.S.C. 2931 et seq.

(CFDA No. 11.431)—Climate and Atmospheric Research

Program Objectives

The long term objective of the Climate and Global Change Program is to provide reliable predictions of climate change and associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modelled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

Program Priorities

In FY 1997, NOAA will give priority attention to individual proposals in the areas listed below. Investigators are asked to specify clearly which of these areas is being pursued. The names, affiliations and phone numbers of relevant Climate and Global Change Program Officers are provided. Funding for some programs may be limited to ongoing projects or may be used to fund projects proposed in FY 1996 that were unable to be funded due to unusual budgetary circumstances. Prospective applicants should communicate with Program Officers for information on priorities within program elements and prospects for funding. Applicants should send letters of intent and proposals to the NOAA Office of Global Programs rather than to individual Program Officers, unless specifically instructed otherwise.

- Atlantic Climate Change/World Ocean Circulation Experiment—contact: David Goodrich, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 38, Internet: goodrich@ogp.noaa.gov.
- Atmospheric Chemistry—contact: Joel Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 21, Internet: levy@ogp.noaa.gov.
- Climate Change Data and Detection—contact: Bill Murray, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 26, Internet: murray@ogp.noaa.gov.
- Climate Observations—contact: Rex Fleming, NOAA/OAR, Boulder, CO, 303/497–8165, Internet: flemingr@ncar.ucar.edu; Bill Murray (for atmosphere and land surface observations), NOAA/Global Programs, Silver Spring, MD; 301/427–2089 ext. 26, Internet: murray@ogp.noaa.gov; or Mike Johnson (for ocean observations), NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 62, Internet: johnson@ogp.noaa.gov.
- Economics and Human Dimensions of Climate Fluctuations—contact: Claudia Nierenberg, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 46, Internet: nierenberg@ogp.noaa.gov or Caitlin Simpson, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 47, Internet: simpson@ogp.noaa.gov.
- Education—contact: Daphne Gemmill, NOAA/Office of Global Programs, Silver Spring, MD; 301–427–2089 ext. 20, Internet: gemmill@ogp.noaa.gov.
- GCIP (GEWEX Continental-Scale International Project)—contact: Rick Lawford, NOAA/Programs, Silver Spring, MD; 301–427–2089 ext. 40, Internet: lawford@ogp.noaa.gov.
- Global Ocean—Atmosphere—Land System (GOALS) and Pan-American Climate Studies (PACS)—contact: Michael Patterson, NOAA/Office of Global Programs, Silver Spring, MD; 301–427–2089 ext. 12, Internet: patterson@ogp.noaa.gov.
- Ocean-Atmosphere Carbon Exchange Study (OACES)—contact: James F. Todd, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 32, Internet: todd@ogp.noaa.gov.
- Paleoclimatology—contact: Mark Eakin, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 19, Internet: eakin@ogp.noaa.gov or Jonathan Overpeck, NOAA/National Geophysical Data Center, Boulder, CO; 303–497–6172, Internet: jto@mail.ngdc.noaa.gov.

Eligibility

Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community. Non-academic proposers are urged to seek collaboration with academic institutions. Universities, non-profit organizations, for profit organizations, State and local governments, and Indian Tribes, are included among entities eligible for funding under this announcement. While not a prerequisite for funding, applicants are encouraged to consider conducting their research in one or more of the National Marine Estuarine Research Reserve System or National Marine Sanctuary sites. For further information on these field laboratory sites, contact Dr. Dwight Trueblood, NOAA/NOS, 301–713–3145 ext. 174.

The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. Funding for non-U.S. institutions is not available under this announcement.

Letters of Intent

Letters of Intent: (1) Letters should be no more than two pages in length and include the name and institution of principal investigator(s), a statement of the problem, brief summary of work to be completed, approximate cost of the project, and program element(s) to which the proposal should be directed.

(2) Evaluation will be by program management, according to the selection criteria for full proposals described above. (3) It is in the best interest of applicants and their institutions to submit letters of intent; however, it is not a requirement. (4) Facsimile and electronic mail are acceptable for letters of intent only. (5) Projects deemed unsuitable during program review should not be submitted as full proposals.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which address one of the Program Priorities listed below and meet the following evaluation criteria:

(1.) Scientific Merit (20%): Intrinsic scientific value of the subject and the study proposed.

(2.) Relevance (20%): Importance and relevance to the goal of the Climate and Global Change Program and to the research areas listed above.

(3.) Methodology (20%): Focused scientific objective and strategy, including measurement strategies and data management and consideration; project milestones; and final products.

(4.) Readiness (20%): Nature of the problems; relevant history and statue of existing work; level of planning, including existence of supporting documents; strength of proposed scientific and management team; past performance record of proposers.

(5.) Linkages (10%): Connections to existing or planned national and international programs; partnerships with other agency or NOAA participants, where appropriate.

(6.) Costs (10%): Adequacy of proposed resources; appropriate share of total available resources; prospects for joint funding; identification of long-term commitments.

Section Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by (1) independent peer mail review, and/or (2) independent peer panel review; both NOAA and non-NOAA experts in the field may be used in this process. Their recommendations and evaluations will be considered by the Program Manager/Officer in final selections. Those ranked by the panel and program as not recommended for funding will not be given further consideration and will be notified of non-selection. For the proposals rated either Excellent, Very Good or Good, the Program Manager will: (a) Ascertain which proposals meet the objectives, fit the criteria posted, and do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies (b) select the proposals to be funded, (c) determine the total duration of funding for each proposal, and (d) determine the amount of funds available for each proposal. Awards are not necessarily made to the highest-scored proposals. Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

(a) Full Proposals: (1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal. (2) Investigators are not required to submit more than 3 copies of the proposal, however, the normal review process requires 20 copies. Investigators are encouraged to submit sufficient proposals copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5×11″), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, investigators vitae, and all appendices, and should be limited to funding requests for one to three year duration. Appended information may not be used to circumvent the page length limit. Federally mandated forms are not included within the page count. (4) Proposals should be sent to the NOAA Office of Global Programs at the above address. (5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

(b) Required Elements: All proposals should include the following elements:

(1.) Signed title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which project area is being addressed. The PI and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2.) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s) investigator(s), total proposed cost and budget period.

(3.) Results from prior research: The results of related projects supported by NOAA and other agencies should be described, including their relation to the currently proposed work.

Reference to each prior research award should include the title, agency, award number, PIs, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4.) Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program, and the program priorities listed above. Benefits of the proposed project to the general public and the scientific community should be discussed. A year-by-year summary of proposed work must be included clearly indicating that each year's proposed work is severable and can easily be separated into annual increments of meaningful work. The statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15 page limit should discuss this possibility with the appropriate Program Officer prior to submission. In general, proposals from 3 or more investigators may include a statement of work containing up to 15 pages of overall project description plus up to 5 additional pages for individual project descriptions.

(5.) Budget: Applicants must submit a Standard Form 424 (4–92) ''Application for Federal Assistance,'' including a detailed budget using the Standard Form 424a (4–92), ''Budget Information—Non-Construction Programs.'' The form is included in the standard NOAA application kit. The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Additional text to justify expenses should be included as necessary.

(6.) Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers.

(7.) Current and pending support: For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months, dollar value and duration. Requested

values should be listed for pending support.

(8.) List of suggested reviewers: The cover letter may include a list of individuals qualified and suggested to review the proposal. It also may include a list of individuals that applicants would prefer to not review the proposal. Such lists may be considered at the discretion of the Program Officer.

(c) Other requirements:

(1.) Applicants may obtain a standard NOAA application kit from the Program Office.

Primary applicant Certification—All primary applicants must submit a completed Form CD–511. ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''. Applicants are also hereby notified of the following:

1. Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications—Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(2.) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(3.) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover preaward costs.

(4.) This program is subject to the requirements of OMB Circular No. A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' and 15 CFR Part 24, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(5.) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(6.) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7.) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to the Department of Commerce are made.

(8.) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9.) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global Change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD contact number, 800–735–2258, between the hours of 8:00 a.m.–4:30 p.m.

Classification: This notice has been determined to be not significant for purposes of Executive Order 12866. The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046.

Dated: June 2, 1996.

J. Michael Hall,

Director, Office of Global Programs, National Oceanic and Atmospheric Administration.

[FR Doc. 96–15258 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of Staged Entry Period for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products and Silk Apparel Products Produced or Manufactured in the People's Republic of China

June 12, 1996.

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

ACTION: Issuing a directive to the Commissioner of Customs amending earlier directives with respect to textile products from China.

EFFECTIVE DATE: June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

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

At the request of the Office of the U.S. Trade Representative, a notice published in the Federal Register on May 17, 1996 (61 FR 24919) amended previous directives which established limits for certain textile products, produced or manufactured in China and exported during 1996. (Also see 61 FR 25000, published on May 17, 1996.)

The Office of the U.S. Trade Representative has decided to extend the staged entry period of certain goods produced or manufactured in China and exported from China for an additional 30-day period beginning on June 14, 1996.

This action is being taken to facilitate implementation of a further request to CITA from the Office of the U.S. Trade Representative in accordance with section 301 of the Trade Act of 1974, as amended.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995).

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 12, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on November 30, 1995 and December 13, 1995, by the Chairman, Committee for the Implementation of Textile Agreements (CITA). Those directives concern imports of certain silk apparel and certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the People's Republic of China and exported from China during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

The above directives are hereby amended to the extent necessary to facilitate implementation of the directive of the Office of the U.S. Trade Representative to the Commissioner of Customs regarding textile products from China dated June 12, 1996, issued pursuant to section 301 of the Trade Act of 1974, as amended. For your information, entry of the following categories of textile products, produced or manufactured in the People's Republic of China, is hereby limited, over the 30-day period (commencing with exports from China on or after June 14, 1996) to the following amounts:

Category	Amount to be entered
Sublevels in Group I	
218	1,631,752 square meters.
317/326	2,961,510 square meters.
338/339	355,559 dozen.
341	97,889 dozen.
347/348	360,698 dozen.
352	270,175 dozen.
359–V [1]	122,273 kilograms.
360	1,076,438 numbers.
361	601,945 numbers.
447	11,595 dozen.
448	3,259 dozen.
638/639	354,776 dozen.
641	194,097 dozen.
642	45,002 dozen.
647	226,428 dozen.
648	161,781 dozen.
649	131,463 dozen.
650	16,367 dozen.
652	376,963 dozen.
659–S [2]	87,044 kilograms.
840	69,473 dozen.
842	38,367 dozen.
847	183,392 dozen.
Silk Apparel Group 733, 734, 735, 736, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 750, 751, 752, 758 and 759, as a group.	51,915,694 square meters equivalent.
Specific Limit within Group	
740 (Men's and boys' shirts, not knit).	495,543 dozen.
741 (Women's and girls' shirts/ blouses, not knit).	1,236,580 dozen.

[1] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[2] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

Goods exported in excess of the amounts allowed during the previous 30-day staged entry period, beginning on May 15, 1996 and extending through June 13, 1996 (see letter dated May 15, 1996) may be entered during the June 14, 1996 through July 13, 1996 period.

Textile products in the above group and categories will be sublimits to the calendar year limits for the same group and categories established in the directives dated November 30, 1995 and December 13, 1995.

Categories 740 and 741 will be subject to specific limits for the June 14, 1996 through July 13, 1996 period,and subject to the Silk Group limit for the same period. The June 14, 1996 through July 13, 1996 period for the Silk Group, however, shall be a sublevel of the Silk Group for the 1996 calendar year. Charges for the 1996 calendar year limits for Categories 740 and 741 will be provided by CITA for goods exported during the June 14, 1996 through July 13, 1996 period.

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

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–15351 Filed 6–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Establishment and Amendment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

June 11, 1996.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing and increasing limits.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

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

The Governments of the United States and the Kingdom of Nepal agreed to amend and extend their current bilateral agreement for three additional years, until December 31, 2000. The two governments agreed to establish a limit for merged Categories 342/642 and to increase the 1996 base limit for Categories 336/636.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a limit for newly merged Categories 342/642 for the period beginning on January 1, 1996 and extending through December 31, 1996 and to increase the current limit for Categories 336/636.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62410, published on December 6, 1995; and 60 FR 66269, published on December 21, 1995.

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

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 11, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive cancels, effective on June 17, 1996, the directive issued to you on December 15, 1995, by the Chairman, Committee for the Implementation of Textile Agreements (CITA), which directed you to count imports for consumption and withdrawals from warehouse for consumption of textile products in Category 642 produced or manufactured in Nepal and exported during the period November 28, 1995 through November 27, 1996. Import charges already made to Category 642 shall be retained.

This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman of CITA. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on June 17, 1996 , you are directed, pursuant to exchange of notes dated April 18, 1996 and April 30, 1996 between the Governments of the United States and the Kingdom of Nepal, to establish a limit for newly merged Categories 342/642 and increase the current limit for Categories 336/636 for the period January 1, 1996 through December 31, 1996, as follows:

Category	Twelve-month limit [1]
342/642	262,764 dozen.
336/636	208,450 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

Adjustment to import charges for Category 642 will be provided at a later date.

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

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–15260 Filed 6–14–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–010]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

June 11, 1996.

Take notice that on June 5, 1996, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, to be effective June 6, 1996:

Third Revised Sheet No. 374
Second Revised Sheet No. 385

Columbia states that the purpose of this filing is to comply with the tariff changes directed to be made in Columbia Gas Transmission Corp., 75 FERC ¶ 61,199 (1996). In compliance with that order, and as further explained in Columbia's filing, Columbia is making tariff changes to allow for certain permissible cost-free inventory transfers among SIT service agreements; to incorporate procedures for posting information concerning any grant of emergency relief from interruption in the event of a firm capacity curtailment on Columbia's system (Section 16.5 of the General Terms and Conditions (GTC)); to provide for the maintenance and availability of information on such grants of relief; and to extend assessment of the $25 per dekatherm penalty in GTC section 16.5 to parties receiving such emergency relief on the basis of materially false representations.

Columbia states that copies of its filing have been mailed to all firm customers, affected state commissions and interruptible customers that have made a standing request for service of filings.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15237 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–253–001]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

June 11, 1996.

Take notice that on June 6, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fourth Revised Sheet No. 20, to be effective July 1, 1996.

Natural states that the filing is submitted pursuant to Section 2.6(b) of the General Terms and Conditions of Natural's FERC Gas Tariff, Sixth Revised Volume No. 1 [Section 2.6(b)]. Section 2.6(b) allows Natural to file a one-time adjustment to its rates under Rate Schedule DSS to reflect the cost of cushion gas Natural must provide to replace that previously provided by customers but returned by Natural to customers upon expiration of Rate Schedules S–1, LS–2 and LS–3.

On June 6, 1996, Natural withdrew Fourth Revised Sheet No. 20 filed on May 31, 1996, and submitted Fifth Revised Sheet No. 20 for the sole purpose of correcting a pagination error. Natural requested waivers of its Tariff and the Commission's Regulations, including the requirements of Section 154.63, to the Extent necessary to permit Fifth Revised Sheet No. 20 to become effective July 1, 1996.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15235 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–270–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 11, 1996.

Take notice that on June 6, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective July 6, 1996:

Second Revised Sheet No. 134
Second Revised Sheet No. 135
Second Revised Sheet No. 136
First Revised Sheet No. 137
Second Revised Sheet No. 138
Second Revised Sheet No. 139
Second Revised Sheet No. 140
Second Revised Sheet No. 141
First Revised Sheet No. 142
First Revised Sheet No. 144
Second Revised Sheet No. 441
First Revised Sheet No. 442

Northern states that it is herein proposing a number of modifications to simplify, clarify and enhance flexibility within its firm and interruptible storage service Rate Scheduled FDD and IDD, respectively. Northern is not proposing any change to the rates or rate structure.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must as provided in Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15234 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–62–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

June 11, 1996.

Take notice that on May 28, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a refund report in accordance with Section 4 of Transco's Rate Schedule FT–NT.

Transco states that the report shows the flow through of refunds to Transco's FT–NT customers resulting from a refund received from Texas Gas Transmission Corporation (Texas Gas) in accordance with the Stipulation and Agreement in Texas Gas's general rate case Docket No. RP94–423, et al., approved by the Commission on February 20, 1996.

Transco further states that on May 24, 1996, it flowed through refunds totalling $3,494,793.30, including interest of $185,030.00, to its FT–NT customers for the referenced Texas Gas refund for the period April 1, 1995 through October 31, 1995.

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, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules of Regulations. All such petitions or protests must be filed on or before June 18, 1996. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15239 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2058]

Washington Water Power Company; Errata Notice to Notice of Intent to File Application for New License

June 11, 1996.

In the Notice of Intent to File Application for New License issued on May 28, 1996 and published on June 7, 1996, in the Federal Register (61 FR 29088), the following corrections should be made:

In item ''h'', the effective date of the original license should read March 1, 1951, instead of January 10, 1951.

In item ''i'', the expiration date of the original should read February 28, 2001, instead of January 9, 2001.

In item ''m'', last sentence, the deadline for filing applications for license for this project should read February 28, 1999, instead of January 9, 1999.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15238 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–226–001]

Young Gas Storage Company, Ltd., Notice of Proposed Changes in FERC Gas Tariff

June 11, 1996.

Take notice that on June 6, 1996, Young Gas Storage Company, Ltd. (Young) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Tariff Sheet No. 6 and First Revised Sheet Nos. 7–8, to be effective June 1, 1996.

Young states that the filing is being filed to comply with the letter order issued May 30, 1996, in Docket No. RP96–226–000. Young states that the purpose of the filing is to correct the pagination of the tariff sheets being filed.

Young requests any waiver necessary of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective June 1, 1996, the start of the injection season.

Young states that copies of the filing are being served upon all parties in Docket No. RP96–226–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15236 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1933–000, et al.]

Gelber Group Inc., et al.; Electric Rate and Corporate Regulation Filings

June 11, 1996.

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

1. Gelber Group, Inc.

[Docket No. ER96–1933–000]

Take notice that on May 28, 1996, Gelber Group, Inc. tendered for filing a Petition for Blanket Authorizations, Certain Waivers, and Order Approving Rate Schedule Governing Market Based Sales of Energy and Capacity.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Unitil Power Corp.

[Docket No. ER96–1936–000]

Take notice that on May 28, 1996, Unitil Power Corp. tendered for filing two service agreements for service under Unitil Power Corp., FERC Elec. Tariff, Orig. Vol. No. 2.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Midwest Energy, Inc.

[Docket No. ER96–1948–000]

Take notice that on May 29, 1996, Midwest Energy, Inc. (Midwest) tendered for filing a Service Agreement for Firm Transmission Service between Midwest and Duke/Louis Dreyfus.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER96–1972–000]

Take notice that on May 31, 1996, PECO Energy Company (PECO), filed a Service Agreement dated May 23, 1996, with Louisville Gas & Electric Company (LG&E) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds LG&E as a customer under the Tariff.

PECO requests an effective date of May 23, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to LG&E and to the Pennsylvania Public Utility Commission.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. PECO Energy Company

[Docket No. ER96–1973–000]

Take notice that on May 31, 1996, PECO Energy Company (PECO), filed a Service Agreement dated May 23, 1996, with Louisville Gas & Electric Company (LG&E) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds LG&E as a customer under the Tariff.

PECO requests an effective date of May 23, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to LG&E and to the Pennsylvania Public Utility Commission.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER96–1974–000]

Take notice that on May 31, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (Entergy Operating Companies), tendered for filing a Transmission Service Agreement (TSA) between Energy Services, Inc. and Municipal Energy Agency of Mississippi. Entergy Services states that the TSA sets out the transmission arrangements under which the Entergy Operating Companies provide firm transmission service under their Transmission Service Tariff.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER96–1976–000]

Take notice that on May 31, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire (together, the NU System Companies) an amendment to the Capacity Agreement previously filed by NUSCO.

NUSCO requests that the proposed rate schedule changes be permitted to become effective June 1, 1996. NUSCO states that a copy of the filing has been mailed or delivered to the affected parties.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER96–1977–000]

Take notice that on May 31, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service

Agreement to provide non-firm point-to-point transmission service to NorAm Energy Services, Inc. (NorAm) under the NU System Companies' Transmission Service Tariff No. 8.

NUSCO states that a copy of this filing has been mailed to NorAm.

NUSCO requests that the Service Agreement become effective June 1, 1996.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Boston Edison Company

[Docket No. ER96–1978–000]

Take notice that on May 31, 1996, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Federal Energy Sales, Inc. (Federal). Boston Edison requests that the Service Agreement become effective as of June 1, 1996.

Edison states that it has served a copy of this filing on Federal and the Massachusetts Department of Public Utilities.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Boston Edison Company

[Docket No. ER96–1979–000]

Take notice that on May 31, 1996, Boston Edison Company (Boston Edison), tendered for filing a Sixth Extension Agreement between Boston Edison and New England Power Company (NEP) regarding the provision of sub-transmission service for NEP under Boston Edison's FERC Rate Schedule No. 46. The Seventh Extension Agreement extends the date of termination of service from July 31, 1996 to November 30, 1996 and has been executed only by Boston Edison. Boston Edison requests an effective date of April 1, 1996.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Northern States Power Company (Minnesota Company)

[Docket No. ER96–1980–000]

Take notice that on May 31, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing the following agreements:

- Transmission Service Agreement between NSP and Otter Tail Power Company.
- Transmission Service Company between NSP and Wisconsin Power and Light Company.

NSP requests that the Commission accept the agreements effective May 1, 1996, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Northern States Power Company (Minnesota Company)

[Docket No. ER96–1981–000]

Take notice that on May 31, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing the following agreements:

- Transmission Service Agreement between NSP and Otter Tail Power Company.
- Transmission Service Agreement between NSP and Wisconsin Power and Light Company.

NSP requests that the Commission accept the agreements effective May 1, 1996, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota Company)

[Docket No. ER96–1982–000]

Take notice that on May 31, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing the Transmission Service Agreement between NSP and Sonat Power Marketing, Inc.

NSP requests that the Commission accept the agreement effective May 10, 1996, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Ohio Edison Company Pennsylvania Power Company

[Docket No. ER96–1983–000]

Take notice that on May 31, 1996, Ohio Edison Company, tendered for filing on behalf of itself and Pennsylvania Power Company, an Agreement for Power Transactions with AES Power Incorporate. This initial rate schedule will enable the parties to purchase and sell capacity and energy in accordance with the terms of the Agreement.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Ohio Edison Company Pennsylvania Power Company

[Docket No. ER96–1984–000]

Take notice that on May 31, 1996, Ohio Edison Company, tendered for filing on behalf of itself and Pennsylvania Power Company, an Agreement for Power Transactions with Carolina Power & Light Company. This initial rate schedule will enable the parties to purchase and sell capacity and energy in accordance with the terms of the Agreement.

Comment date: June 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Ohio Edison Company Pennsylvania Power Company

[Docket No. ER96–1985–000]

Take notice that on May 31, 1996, Ohio Edison Company, tendered for filing on behalf of itself and Pennsylvania Power Company, an Agreement for Power Transactions with Aquila Power Corporation. This initial rate schedule will enable the parties to purchase and sell capacity and energy in accordance with the terms of the Agreement.

Comment date: June 25, 1996, 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, 888 First 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. 96–15251 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–1956–000, et al.]

Southern California Edison Company, et al. Electric Rate and Corporate Regulation Filings

June 10, 1996.

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

1. Southern California Edison Company

[Docket No. ER96–1956–000]

Take notice that on May 30, 1996, Southern California Edison Company (Edison), tendered for filing the following power sale agreement between the City of Anaheim (Anaheim) and Edison, as an initial rate schedule, and the associated supplemental agreement and firm transmission service agreement for integration of the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 Integrated Operations Agreement (1990 IOA)), as a supplement to Rate Schedule FERC No. 246:

1996/7 Alamitos Unit Contingent Power Sale Agreement Between the City of Anaheim and The Southern California Edison Company (Unit PSA)

Supplemental Agreement for the Integration of the Unit Power Sale Agreement Between Southern California Edison and City of Anaheim (Supplemental Agreement) Edison-Anaheim

Alamitos Station Firm Transmission Service Agreement Between Southern California Edison Company and City of Anaheim (FTS Agreement)

The Unit PSA provides the terms and conditions whereby Edison shall make available and Anaheim shall purchase Contract Capacity and Associated Energy during the Delivery Season of June 1 through October 31 (5 months) of 1996, and during the Delivery Season of May 1 through October 31 (6 months) of 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the Unit PSA pursuant to the 1990 IOA. The FTS Agreement sets forth the terms and conditions by which Edison, among other things, will provide firm transmission service for the Unit PSA. Edison seeks waiver of the 60 day prior notice requirement and requests the Commission assign an effective date of June 1, 1996, to the Unit PSA, Supplemental Agreement, and FTS Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER96–1957–000]

Take notice that on May 30, 1996, Southern California Edison Company (Edison), tendered for filing the following 1996 Settlement Agreement (Settlement) with the Cities of Anaheim, Colton, and Riverside, California (Cities) and Amendment No. 2 to the 1990 Integrated Operations Agreement for each City, FERC Rate Schedule Nos. 246, 249, and 250, respectively:

1996 Settlement Agreement Between Southern California Edison Company and the Cities of Anaheim, Colton, and Riverside, California

Amendment No. 2 to the 1990 Integrated Operations Agreement Between Southern California Edison Company and the City of Anaheim

Amendment No. 2 to the 1990 Integrated Operations Agreement Between Southern California Edison Company and the City of Colton

Amendment No. 2 to the 1990 Integrated Operations Agreement Between Southern California Edison Company and The City of Riverside

The Settlement sets forth the terms and conditions by which Edison agrees to integrate new Capacity Resources, supersedes parts of Appendix B to the 1992 Settlement regarding integration of resources, and terminates the 1995 Power Sale Agreement (1995 PSA) between Edison and the City of Colton. Additionally, Edison and the Cities have agreed to amend the termination provisions of the 1990 IOA to only require 3 years notice for termination. Edison seeks waiver of the 60 day prior notice requirement and requests that the Commission assign an effective date of June 1, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Southern California Edison Company

[Docket No. ER96–1958–000]

Take notice that on May 30, 1996, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (1990 IOA) with the City of Colton (Colton), FERC Rate Schedule No. 249, and associated Firm Transmission Service Agreement (FTS Agreement):

Supplemental Agreement for the Integration of the SDG&E/Colton Summer 1996 Power Sale Agreement Between Southern California Edison Company and City of Colton

Edison-Colton San Onofre Transmission Service Agreement Between Southern California Edison Company and City of Colton

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate capacity and associated energy under Colton's SDG&E/Colton Summer 1996 Power Sale Agreement (SDG&E Agreement). The FTS Agreement sets forth the terms and conditions by which Edison, among other things, will provide firm transmission service for the SDG&E Agreement. Edison seeks waiver of the 60 day prior notice requirement and requests the Commission assign an effective date of June 1, 1996, to the Supplemental and FTS Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Indiana Public Service Company

[Docket No. ER96–1959–000]

Take notice that on May 30, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Louis Dreyfus Electric Power, Inc.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Louis Dreyfus Electric Power, Inc. under Northern Indiana Public Service Company's Power Sales Tariff, which was accepted for filing by the Commission and made effective by Order dated August 17, 1995, in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Louis Dreyfus Electric Power, Inc. request waiver of the Commission's sixty-day notice requirement to permit an effective date of June 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Northern Indiana Public Service Company

[Docket No. ER96–1960–000]

Take notice that on May 30, 1996, Northern Indiana Public Service Company, tendered for filing an

executed Service Agreement between Northern Indiana Public Service Company and International Utility Consultants.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to International Utility Consultants under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995, in Docket No. ER95–1222–000. Northern Indiana Public Service Company and International Utility Consultants request waiver of the Commission's sixty-day notice requirement to permit an effective date of June 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER96–1961–000]

Take notice that on May 30, 1996, New England Power Company, tendered for filing a Supplemental Service Agreement between New England Power Company and Fitchburg Gas & Electric Light Company for transmission service under NEP's FERC Electric Tariff, Original Volume No. 3.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Delmarva Power & Light Company

[Docket No. ER96–1962–000]

Take notice that on May 31, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a Supplement to its FERC Rate Schedule No. 99, with respect to Delmarva's partial requirements service agreement with the City of Seaford. The proposed change would increase base demand and energy rates by 1.19%, or about $17,000 annually (based on actual billing data for calendar year 1995).

Delmarva proposes an effective date of June 1, 1996. Delmarva asserts that the increase and the proposed effective date is in accord with the service agreement with the City of Seaford as accepted for filing as Rate Schedule No. 99 and eight supplements in Docket No. ER95–1039–000, which service agreement provides for changes in rates that correspond to the level of changes in rates approved by the Delaware Public Service Commission for Delmarva's non-residential retail customers.

Copies of the filing were served on the City of Seaford and the Delaware Public Service Commission.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER96–1963–000]

Take notice that on May 31, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Western Power Services, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 15, 1996.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–1964–000]

Take notice that on May 31, 1996, Duke Power Company (Duke), tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and North Carolina Electric Membership Corporation under Duke's FERC Electric Tariff, Original Volume No. 3.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Company

[Docket No. ER96–1965–000]

Take notice that on May 31, 1996, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission an Agreement for the Sale and Purchase of Capacity and Energy between IPC and Oregon Trail Electric Consumers Cooperative, Inc., a First Amendment to said Agreement, and a Certificate of Concurrence.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. United Illuminating Company

[Docket No. ER96–1966–000]

Take notice that on May 31, 1996, United Illuminating Company (UI), submitted for informational purposes all individual Purchase Agreements executed under UI's Wholesale Electric Sales Tariff, FERC Electric Tariff, Original Volume No. 2 during the six-month period of November 1, 1995 through April 30, 1996.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Indeck Pepperell Power Associates, Inc.

[Docket No. ER96–1967–000]

Take notice that on May 31, 1996, Indeck Pepperell Power Associates, Inc. (Indeck Pepperell) submitted for filing the Second Revised Rate Schedule FERC No. 1 and the Power Purchase and Sale Agreement between Electric Clearinghouse, Inc. and Indeck Pepperell.

Indeck Pepperell states that its filing is in accordance with Part 35 of the Commission's regulations. Indeck Pepperell requests a waiver of the Commission's notice requirements so that the Second Revised Rate Schedule and the Agreement may become effective on June 1, 1996.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. American Electric Power Service Corporation

[Docket No. ER96–1968–000]

Take notice that on May 31, 1996, the American Electric Power Service Corporation (AEPSC), tendered for filing service agreements, executed by AEPSC and the following Parties, under the AEP Companies' Power Sales and/or Point-to-Point Transmission Service Tariffs. The Dayton Power and Light Company, Delhi Energy Services, Inc., Federal Energy Sales, Inc., Old Dominion Electric Cooperative, Phibro, Inc., TransCanada Power Corporation, Valero Power Services Company, and Utilicorp United, Inc.

The Power Sales Tariff has been designated as FERC Electric Tariff, First Revised Volume No. 2, effective October 1, 1995. The Point-to-Point Transmission Tariff has been designated AEPSC FERC Electric Tariff Second Revised Volume No. 1, effective September 7, 1995. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after May 2, 1996.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commission of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Southwestern Public Service Company

[Docket No. ER96–1969–000]

Take notice that on May 31, 1996, Southwestern Public Service Company

(SPS), tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, an Interconnection Agreement between the West Texas Municipal Power Agency (WTMPA) and SPS. The Interconnection Agreement cancels and replaces the four individual rate schedules SPS has with the municipalities of Lubbock, Tulia, Floydada, and Brownfield, Texas. Subsequent to the filing of the individual rate schedules with the municipalities of Lubbock, Tulia, Floydada, and Brownfield, Texas, the four municipalities incorporated WTMPA. SPS files the interconnection Agreement to allow it to sell directly to WTMPA, to harmonize its treatment of each municipality, and to revise its charges for emergency service. SPS requests waiver of the Commission's 60 day prior notice and filing requirements to allow the Interconnection Agreement to become effective June 1, 1996. SPS states that a copy of this filing has been served on the customer.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Virginia Electric and Power Company

[Docket No. ER96–1970–000]

Take notice that on May 31, 1996, Virginia Electric and Power Company (the Company), tendered for filing a letter agreement implementing the rate schedules included in the Interconnection and Operating Agreement between the Company and Old Dominion Electric Cooperative.

Copies of the filing were served upon Old Dominion Electric Cooperative, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER96–1971–000]

Take notice that on May 31, 1996, New England Power Company, filed Service Agreements and Certificates of Concurrence with NorAm Energy Services, Inc. marketers under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: June 24, 1996, 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, 888 First 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. 96–15253 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–P

[Project Nos. 1494–124, et al.]

Hydroelectric Applications [Grand River Dam Authority, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. Type of Application: Request for Commission Approval to Grant a Permit for the Construction and Operation of a Marina Facility.

b. Project No.: 1494–124.

c. Dated Filed: April 30, 1996.

d. Applicant: Grand River Dam Authority (licensee).

e. Name of Project: Pensacola Project.

f. Location: The Duck Creek arm of Grand Lake O' The Cherokees, Delaware County, Afton, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant Contact: Mr. Robert W. Sullivan, Jr., Grand River Dam Authority, P.O. Box 409, Drawer G, Vinita, OK 74301, (918) 256–5545.

i. FERC Contact: Joseph C. Adamson, (202) 219–1040.

j. Comment Date: July 15, 1996.

k. Description of Proposed Action: The licensee requests Commission approval to grant a permit to Mr. John Mullen, d/b/a Thunder Bay Marina for the construction and operation of a marina facility. The proposed facility includes the addition of 5 floating docks containing 129 boat slips to an existing facility, with 3 floating docks containing 80 boat slips, for a total of 8 floating docks containing 209 boat slips.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

2 a. Type of Application: As-Built Exhibits.

b. Project No: 5376–034.

c. Date Filed: October 12, 1995 and April 16, 1996.

d. Applicant: Horseshoe Bend Hydroelectric Co.

e. Name of Project: Horseshoe Bend Project.

f. Location: On the Payette River in Boise County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant Contact: Mr. David O'Day, Project Manager, Horseshoe Bend Hydroelectric Co., P.O. Box 2797, Boise, ID 83701, (208) 345–7515.

i. FERC Contact: Paul Shannon, (202) 219–2866.

j. Comment Date: July 17, 1996.

k. Description of Filing: Horseshoe Bend Hydroelectric Company filed as-built exhibits A, F, and G for the Commission's approval in accordance with article 35 of the project's license. The exhibit A is a written project description. The exhibit F includes drawings of the constructed project features. The exhibit G includes drawings of the project boundary as described by surveyed bearings and distances. The as-built project boundary is more detailed and slightly different than the project boundary approved in the license.

Interested parties can request a copy of the as-built exhibits by calling the applicant contact from item (h) of this notice.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

3 a. Type of Application: Surrender of Exemption (5 MW or Less).

b. Project No.: 6789–003.

c. Date Filed: May 14, 1996.

d. Applicant: Robert A. Lodi.

e. Name of Project: Advance Mills Hydroelectric Project.

f. Location: On the North Rivanna River in Albemarle County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 USC §§ 791(a)–825(r).

h. Contact: Mr. Robert A. Lodi, 1785 Frays Mill Road, Ruckersville, VA 22968, (804) 975–0113.

i. FERC Contact: Mr. Lynn R. Miles, (202) 219–2671.

j. Comment Date: July 22, 1996.

k. Description of the Proposed Action: The existing project, for which the exemption is being surrendered, consists of: (1) a 12-foot-high concrete dam; (2) a reservoir with a gross storage capacity of 12 acre feet; (3) a raceway approximately 200 feet in length; (4) a building containing the project's electrical controls; (5) two turbine/generators with a total capacity of 65 kilowatts; and (6) related facilities.

The exemptee is requesting surrender of the exemption because the project is not economically feasible.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

4 a. Type of Application: Amendment of Preliminary Permit.

b. Project No.: 11524–001.

c. Date filed: May 1, 1996.

d. Applicant: Mokelumne River Water and Power Authority.

e. Name of Project: Middle bar.

f. Location: Partially on lands administered by the Bureau of Land Management, on the Mokelumne River, in Amador and Calaveras Counties, California. Township 5 N, Range 11 E, and Section 16.

g. Filed Pursuant to: Federal Power Act 16 USC §§ 791(a)–825(r).

h. Applicant Contact: Mr. Henry M. Hirata, Secretary, Mokelumne River Water and Power Authority, P.O. Box 1810, 1810 E. Hazelton Avenue, Stockton, CA 95201, (209) 468–3000.

i. FERC Contact: Michael Spencer at (202) 219–2846.

j. Comment Date: August 8, 1996.

k. Description of Amended Project: The proposed project would utilize the upper reach of Pardee Reservoir for the Lower Mokelumne Project No. 2916 and consist of: (1) a 420-foot- high concrete arch dam; (2) a reservoir with a storage capacity of 434,000 acre-feet; (3) a powerhouse containing a generating unit with a capacity of 80 MW and an average annual generation of 227 GWh; and (4) a 3-mile-long transmission line. The amended project would be operated as a peaking plant. The amended project would also relocate the powerhouse for PG&E's Project No. 137. Six county roads would need to be modified or reconstructed for the project.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $2,484,000.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, and D2.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 11579–000.

c. Date filed: May 1, 1996.

d. Applicant: SOCAL Energy Limited Partnership.

e. Name of Project: Boulder Valley Pumped Storage Project.

f. Location: Partially on lands administered by the Bureau of Land Management, approximately 30 miles northeast of San Diego, in San Diego County, California. BLM lands are located in sections 1, 2, 11, and 12 in T14S, R1W.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant Contact: Ms. Carol H. Cunningham, Consolidated Pumped Storage, Inc., 680 Washington Blvd., Fifth Floor, Stamford, CT 06901, (203) 425–8850.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Comment Date: August 15, 1996.

k. Description of Project: The applicant is exploring two alternative schemes for the proposed pumped storage project. Both alternatives would use the city of San Diego's existing San Vicente reservoir and dam as a lower reservoir. The first alternative would also consist of: (1) a 235-foot-high dam and 93-acre upper reservoir; (2) a 20-foot-diameter, 12,300-foot-long tunnel; (3) a powerhouse containing an unspecified number of turbines with a total installed capacity of 500 MW; (4) a 0.5-mile-long transmission line interconnecting with an existing San Diego Gas & Electric Company transmission line; and (5) appurtenant facilities.

The second alternative would also consist of: (1) a 180-foot-high dam, a 240-foot-high dam, and a 100-acre upper reservoir; (2) a 30-foot-diameter, 3,000-foot-long tunnel; (3) a powerhouse containing two generating units with a total installed capacity of 400 MW; (4) a 0.5-mile-long transmission line interconnecting with an existing San Diego Gas & Electric Company transmission line; and (5) appurtenant facilities.

No new access roads will be needed to conduct the studies.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6 a. Type of Application: Surrender of License.

b. Project No.: 9085–015.

c. Date Filed: May 24, 1996.

d. Applicant: Richard Balagur.

e. Name of Project: Great Falls Project.

f. Location: On the Ompompanoosuc River, in Orange County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 USC Section 791(a)–825(r).

h. Applicant Contact: Richard Balagur, RR 1, Box 68, Thetford Center, VT 05075, (802) 785–4514.

i. FERC Contact: Regina Saizan, (202) 219–2673.

j. Comment Date: July 31, 1996.

k. Description of Application: The licensee seeks to surrender the license for this unconstructed project because it's no longer feasible to build.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of

application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 10, 1996, Washington, D.C.

Lois D. Cashell,

Secretary.

[FR Doc. 96–15254 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–213–001, et al.]

Columbia Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

June 11, 1996.

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

1. Columbia Gas Transmission Corporation

[Docket No. CP96–213–001]

Take notice that on June 7, 1996, Columbia Gas Transmission Corporation (Columbia), a Delaware corporation, having its principal place of business at 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act, to amend its application for a certificate of public convenience and necessity previously filed with the Commission on February 28, 1996, in Docket No. CP96–213–000, for its Market Expansion Project as supplemented on March 18, 1996 and April 30, 1996.

Columbia's February 28, 1996 application sought a certificate of public convenience and necessity authorizing construction to provide 506,795 dekatherms per day (dth/d) of additional daily firm entitlements to its customers over a three-year period beginning in 1997. Specifically, Columbia sought authority to: (i) increase the performance capabilities of certain existing storage fields; (ii) construct and operate, upgrade, and replace certain natural gas facilities; (iii) abandon certain natural gas facilities and certain base storage gas; and (iv) such other authorizations and/or waivers as may be deemed necessary to implement Columbia's Project.

By this amendment, Columbia now proposes to withdraw certain proposed facility projects including 45.5 miles of pipeline and 14,130 horsepower of compression located in southern Pennsylvania, and in lieu of such projects, to lease firm capacity from Texas Eastern Transmission Corporation (Texas Eastern).

After the filing of Columbia's application, Texas Eastern proposed to Columbia that Texas Eastern expand a portion of its pipeline system in Pennsylvania in order to make available to Columbia an amount of firm capacity (141,500 dekatherms (Dth) per day) pursuant to a Lease at less cost to Columbia and its customers than Columbia's cost to expand its southern Pennsylvania Line 1804 system, which construction has been previously identified in Columbia's application as Projects 4.3, 4.4, 4.5, 4.12, 4.13, 4.15, 4.16, 5.2, 5.3, 5.11, 5.12, 5.13 and 5.14.

Columbia requests Commission approval of the lease arrangement with Texas Eastern to treat the lease as an operating lease, and to recover its costs pursuant to its TCRA. The lease costs to be paid by Columbia to Texas Eastern are proposed to be recovered by Columbia as an operating cost under Account 858.

Under the terms of a lease agreement entered into by Texas Eastern and Columbia, Texas Eastern will: i) construct, own, operate, and maintain certain facilities on its pipeline system in southern Pennsylvania and make available the resulting 141,500 Dth/d of capacity to Columbia on a firm basis.

The lease provides that Texas Eastern will lease capacity to Columbia on a phased-in basis commencing November 1, 1997, consistent with the phased implementation of Columbia's Project, up to a total of 141,500 Dth/d of firm transportation capacity, plus such additional capacity as needed to accommodate retainage, as follows:

Phase-in date of capacity in (Dth/d) and monthly charge		
1. November 1, 1997	36,000	$242,310
2. November 1, 1998	85,800	540,750
3. November 1, 1999	141,500	807,670

and continuing through the remainder of the term of the Lease.

In addition, Columbia will reimburse Texas Eastern for its monthly operation and maintenance costs associated with

the Texas Eastern incremental facilities being constructed to provide the above phased-in amounts of capacity under the lease (''O&M Payment''). Such operation and maintenance costs include a stipulated monthly charge for operation and maintenance expenses, excluding fuel, electric power, and property taxes, which expenses will be adjusted based on the Gross National Product Implicit Price Deflator as specified in the Lease Agreement attached to the application. Charges for fuel, electric power and property taxes are based on actual incurred costs as detailed in the Lease Agreement.

Columbia will utilize the leased capacity on Texas Eastern's system, along with the capacity to be created on its own system, to render the firm transportation and storage service for which Columbia's expansion customers have entered into 15-year service agreements. Columbia will deliver gas into Texas Eastern's facilities at its Waynesburg Compressor Station and will receive gas out of Texas Eastern's facilities at its Eagle Compressor Station also in Pennsylvania. The details of Texas Eastern's proposal are set forth in its application which is being filed concurrently in Docket No. CP96–559–000.

Comment date: June 28, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. Great Lakes Gas Transmission Limited Partnership

[Docket No. CP96–553–000]

Take notice that on May 31, 1996, Great Lakes Gas Transmission Limited Partnership (Great Lakes), One Woodward Avenue, Suite 1600, Detroit, Michigan 48226, filed in Docket No. CP96–553–000 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 construct and operate a meter station and dual line taps in Itasca County, Minnesota, under Great Lakes' blanket certificate issued in Docket No. CP90–2053–000 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.

Great Lakes states that it will deliver up to 500 Mcf of natural gas per day for the account of the City of Cohasset, Minnesota (Cohasset). Natural gas will be received at existing receipt points located in Great Lakes' Eastern Zone and an equivalent quantity will be redelivered upstream through the new meter station and line taps, to be located in Great Lakes' Western Zone. This transportation for Cohasset's account will not impact Great Lakes' existing peak day and annual delivery capability, can be provided without detriment or disadvantage to any other shipper on Great Lakes' system, is not prohibited by its existing tariff, and the total volumes delivered will not exceed total volumes authorized prior to this request.

In addition, Great Lakes states that the proposed new meter station and line taps will be constructed adjacent to its main line proximate to the City of Cohasset, in Itasca County, Minnesota. Great Lakes further states that Cohasset will utilize Great Lakes' service in connection with providing new natural gas service within the City of Cohasset. Great Lakes estimates that the cost of constructing its proposed facilities will be approximately $300,000.

Comment date: July 26, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Green Canyon Gathering Company

[Docket No. CP96–557–000]

Take notice that on June 4, 1996, Green Canyon Gathering Company (Green Canyon), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP96–557–000 a petition under Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order stating that a proposed pipeline project, known as the Green Canyon Gathering System (Gathering System), which Green Canyon proposes to construct and operate on the Outer Continental Shelf (OCS) in the Gulf of Mexico, will be exempt from the Commission's jurisdiction under Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that the proposed Green Canyon Gathering System is designed to gather gas produced from new and existing platforms on the OCS and to deliver the production to interstate and intrastate pipelines that connect to the Gathering System at the outlet side of an onshore processing plant. Green Canyon states that the Gathering System will extend to the edge of the OCS, will be able to connect to platforms throughout its entire length (including beyond the OCS and near the shore), and will have no compression. It is further stated that, upon being placed in service, the Gathering System will provide gas producers on the OCS and their shippers with a means by which to deliver their supplies to the interstate and intrastate networks. Green Canyon contends that the increased competition that this will provide for services on the OCS will lead to reduced costs and will further the Commission's policy to promote market oriented services in the natural gas industry.

Green Canyon states that the Gathering System will be 133 miles long and 24 inches in diameter throughout its length. It will extend into water depths of approximately 630 feet and will be capable of receiving production from platforms located in deep waters well in excess of 200 meters in the Green Canyon, Ewing Bank and Mississippi Canyon Areas of the OCS. It is stated that the Gathering System will be constructed in an inverted ''Y'' configuration, with the three legs of the system interconnecting in South Timbalier Block 193. It is stated that the east leg will be 36.5 miles long, the west leg will be 32 miles long and the north leg will be 55 miles to the onshore Leeville liquids separation facility in La Fourche Parish, Louisiana and an additional 9.82 miles to the Golden Meadows processing plant.

It is stated that the Gathering System is designed to gather gas produced along its length, including gas produced near the shore along the north leg in the Ship Shoal, South Timbalier and Grand Isle Areas of the OCS, as well as in deep waters well beyond the Continental Shelf. Green Canyon projects that the Gathering System will be capable of accessing approximately 505 Bcf of estimated reserves along the north leg, approximately 1,227 Bcf along the east leg and 1,685 Bcf along the west leg. Green Canyon anticipates that laterals of various lengths and diameters will be built by the producers from their production platforms to the Gathering System, allowing the system to operate as a ''spine'' system.

It is stated that at this developmental stage of the proposed project, no production has been committed to the Gathering System. However, based on exploration and development drilling activity in the Gathering System's service area, it is stated that future deliverability is expected to greatly outpace the ability of the existing pipeline and gathering infrastructure in the region to deliver gas onshore for processing.

Green Canyon contends that the OCS is characterized by a mix of pipeline systems; some of which have been functionalized as interstate transmission and others are considered to involve nonjurisdictional gathering. It is stated that the owners of these facilities include interstate and unregulated pipelines as well as natural gas producers who have constructed gathering systems to access their own

production in addition to the production of others. It is stated that OCS facilities owned by interstate pipelines are mostly functionalized as transmission subject to the Commission's jurisdiction under Section 1(b) of the NGA, while those owned by the producers have largely been determined to be gathering systems exempt from the Commission's jurisdiction under the NGA. It is averred that this has given the producers an artificial advantage in competing for the gathering business in the OCS, since they are free of the restraints to which the regulated systems are subject.

Green Canyon believes that a pressing need exists for gathering services on the OCS, which it hopes to fulfill with its proposed facilities. In order for an investment in this project to be justified, however, Green Canyon states that it must be able to compete on an equal footing with the unregulated producers on the OCS for gathering services. Thus, Green Canyon seeks for the Commission to declare its Green Canyon Gathering System a nonjurisdictional gathering system.

In order to meet a projected in-service date of November 1997, Green Canyon will need to enter into binding commitments by the last quarter of 1996 for materials related to the construction of the Gathering System. It is stated that construction must begin by the spring of 1997 if the Gathering System is to come on line by the fourth quarter of 1997. Accordingly, Green Canyon requests that the Commission issue a declaratory order of nonjurisdictional status no later than September 1996.

Comment date: July 2, 1996, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

4. Texas Eastern Transmission Corporation

[Docket No. CP96–559–000]

Take notice that on June 7, 1996, Texas Eastern Transmission Corporation (''Texas Eastern''), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in the above docket an application with the Federal Energy Regulatory Commission (''Commission'') pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity and related authorizations permitting Texas Eastern to:

(1) Construct, install, own, operate and maintain the incremental pipeline facilities and associated ancillary above-ground facilities to comply with applicable Department of Transportation requirements, install one new gas turbine compressor unit, modify six (6) existing reciprocating units, upgrade two existing compressor units and modify an existing M&R Station, all as more fully described in the application;

(2) Lease to Columbia Gas Transmission Corporation (''Columbia'') 141,500 Dth/d of firm transportation capacity, plus fuel, on a phased basis (Columbia filed its proposal to lease these facilities from Texas Eastern concurrently in Docket No. CP96–213–001);

(3) Charge and collect, over the term of the capacity lease agreement between Texas Eastern and Columbia (''Capacity Lease Agreement''), all monthly charges as provided for in the Capacity Lease Agreement;

(4) Pregranted abandonment of the certificate of public convenience and necessity and related authorizations granted herein, upon the termination of the Capacity Lease Agreement or any reduction in leased capacity quantities after completion of the primary term; and

(5) Such other authority and/or waivers as may be deemed necessary by the Commission to facilitate implementation of the proposal contained herein.

Specifically, Texas Eastern proposes to construct the following Expansion Facilities:

(a) Replace approximately 6.15 miles of idled 20-inch pipeline with new 24-inch pipeline connecting existing M&R Station 70012 at milepost 1140.38 to the 24-inch Crayne Farm Pipeline at milepost 1146.50 in Greene County, Pennsylvania;

(b) Replace approximately 10.97 miles of idled 24-inch pipeline with new 36-inch pipeline from approximate milepost 1060.67 to approximate milepost 1071.64 in Somerset County, Pennsylvania between Texas Eastern's existing Uniontown (Station 21–A) and Bedford (Station 22–A) Compressor Stations;

(c) Replace approximately 9.12 miles of idled 24-inch pipeline with new 36-inch pipeline from approximate milepost 1114.61 to approximate milepost 1123.73 in Fulton County, Pennsylvania between Texas Eastern's existing Bedford (Station 22–A) and Chambersburg (Station 23) Compressor Stations;

(d) Upgrade by 4500 HP to 11,000 HP the existing 6500 HP electric compressor at the Uniontown (Station 21–A) Compressor Station;

(e) Add 13,400 gas turbine HP and compressor cylinder modifications at Texas Eastern's Marietta (Station 24) Compressor Station, with cylinder modifications to be performed on six existing reciprocating units;

(f) Upgrade the existing 3500 HP gas turbine unit at Texas Eastern's Waynesburg Compressor Station by 1,500 HP in 1999;

(g) Upgrade Texas Eastern's existing interconnection with Columbia at Waynesburg, M&R Station 70012 located in Greene County, Pennsylvania, to accommodate 141,500 Dth/d of natural gas plus fuel; and

(h) Install ancillary above-ground appurtenant facilities, including but not limited to mainline, crossover and blowoff piping and valving, pressure regulating devices, launchers and receivers for internal inspection instruments and cleaning devices, and associated piping and valves for operating and maintenance purposes associated with each of the referenced pipeline replacements.

As indicated in Exhibits F–I through F–IV of its application, the Expansion Facilities are proposed to be installed within Texas Eastern's existing pipeline corridor.

In order to provide the Expansion Capacity as scheduled on November 1, 1997, Texas Eastern desires to commence construction of the Expansion Facilities by May 1, 1997. Assuming commencement of construction on May 1, 1997, the estimated total cost of the proposed facilities in current year dollars is approximately $63.2 million.

The Lease provides that Texas Eastern will lease capacity to Columbia on a phased-in basis commencing November 1, 1997, consistent with the phased implementation of Columbia's Project, up to a total of 141,500 Dth/d of firm transportation capacity, plus such additional capacity as needed to accommodate retainage, and charge for such capacity as follows:

Phase-in date of capacity in (Dth/d) and monthly charge		
1. November 1, 1997	36,000	$242,310
2. November 1, 1998	85,800	540,750
3. November 1, 1999	141,500	807,670

and continuing through the remainder of the term of the Lease.

In addition, Columbia will reimburse Texas Eastern for its monthly operation and maintenance costs associated with the Texas Eastern incremental facilities being constructed to provide the above phased-in amounts of capacity under the Lease (''O&M Payment''). Such operation and maintenance costs include a stipulated monthly charge for operation and maintenance expenses, excluding fuel, electric power, and property taxes, which expenses will be adjusted based on the Gross National Product Implicit Price Deflator as specified in the Lease Agreement

attached to the Application. Charges for fuel, electric power and property taxes are based on actual incurred costs as detailed in the Lease Agreement.

Comment date: June 28, 1996, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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 385.211 and 385.214) 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 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 filing 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 is 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the 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 therefore, 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. 96–15252 Filed 6–14–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5521–9]

Agency Information Collection Activities Up for Renewal; Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program. OMB Control Number 2040–0164. Expiration Date November 30, 1996. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 16, 1996.

ADDRESSES: Environmental Protection Agency, Office of Wastewater Management (Mail Code 4204), 401 M Street, S.W., Washington, D.C. 20460. Interested persons may obtain a copy of the ICR amendment and supporting analysis without charge by contacting the individual listed below.

FOR FURTHER INFORMATION CONTACT: Valerie Martin, Telephone: (202) 260–7259. FAX: (202) 260–1827. E-Mail: wave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are commercial businesses, hospitals, educational institutions, and multi-family housing units that voluntarily join EPA's WAVE Program. Major respondents are hotels and motels.

Title: Renewal—Reporting Requirements Under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program. OMB Control Number 2040–0164. Expiration Date November 30, 1996.

Abstract: EPA will annually collect water, energy, and cost savings information from ''Partners'' in the WAVE program. Partners can be commercial businesses, governments, or institutions that voluntarily agree to implement cost-effective water efficiency measures in their facilities. Initially the WAVE Program will target the lodging industry. Another type of participant, ''Supporters,'' will work with EPA to promote water efficiency and provide information on products and services. Supporters could be equipment manufacturers, water management companies, utilities, local governments, or the like.

The purpose of the WAVE Program is pollution prevention. As defined by EPA, pollution prevention means ''source reduction'' as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or through protection of natural resources by conservation. By promoting water efficiency, WAVE prevents pollution in two basic ways. First, wastewater flows are reduced which in turn, increases treatment efficiency at wastewater treatment plants resulting in reduced pollutant loads. Second, less water used means that less energy will be used to treat, transport, and heat drinking water and to transport and treat wastewater. To the extent that the reduced energy use so achieved is electrical energy, power plant emissions are reduced. Water efficiency also causes less water to be withdrawn and preserves streamflow to maintain a healthy aquatic environment. Less pumping of groundwater lowers the chance that pollutants will be drained into a water supply well.

EPA will use this information to monitor the success of the program, to demonstrate that pollution prevention can be accomplished with a non-regulatory approach, and to promote the program to potential partners. Participation in the WAVE Program is voluntary; however, once a participant joins the program, it is required to sign and submit a Memorandum of Understanding (MOU), an annual Results Report, and information on miscellaneous additional activities to EPA to receive and retain program benefits, such as software and publicity. No participant will be required to submit confidential business information. EPA will present aggregated data only in its program

progress reports. 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 OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 49 CFR Chapter 15.

The EPA would like to solicit comments on its ICR renewal. Specifically, we would like comments to help us to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average nine hours and 45 minutes per MOU response, four hours and 45 minutes per Results Report response, and eight hours and 30 minutes for additional information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are commercial businesses, hospitals, educational institutions, and multi-family housing units that voluntarily join EPA's WAVE Program. Major respondents are hotels and motels.

Estimated Number of Respondents: 55.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 4,654 hours.

Estimated Total Annualized Cost Burden: $269,295.00.

Dated: June 11, 1996.

Michael B. Cook,

Director Office of Wastewater Management.

[FR Doc. 96–15286 Filed 6–14–96; 8:45 am]

BILLING CODE 6560–50–P

[OPPT–59353; FRL–5378–1]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–96–4. The test marketing conditions are described below.

DATES: This notice becomes effective June 7, 1996. Written comments will be received until July 2, 1996.

ADDRESSES: Written comments, identified by the docket number [OPPT–59353] and the specific TME number should be sent to: TSCA nonconfidential center (NCIC), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NEB–607 (7407), 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

Comments and data may be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified [OPPT–59353]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

FOR FURTHER INFORMATION CONTACT: Shirley D. Howard, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460, (202) 260–3780; e-mail: Howard.sd@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–96–4. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

A notice of receipt of this application was not published in advance of approval. Therefore, an opportunity to submit comments is being offered at this time. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–96–4:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.

2. During manufacturing, processing, and use of the substance at any site controlled by the Applicant, any person under the control of the Applicant, including employees and contractors, who may be dermally exposed to the substance shall use:

a. Gloves determined by the Applicant to be impervious to the substance under the conditions of exposure, including the duration of exposure. The Applicant shall make this determination either by testing the gloves under the conditions of exposure

or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation by the PMN substance and associated chemical substances;

b. Clothing which covers any other exposed areas of the arms, legs, and torso; and

c. Chemical safety goggles or equivalent eye protection.

3. The Applicant must affix a label to each container of the substance or formulations containing the substance. The label shall include, at a minimum, the following statement:

WARNING: Contact with skin may be harmful. Similar chemicals have been found to cause acute health effects, cancer, mutagenicity, blood effects, and developmental toxicity in laboratory animals. To protect yourself, you must wear protective gloves, clothing, and goggles.

4. The Applicant must obtain or develop a Material Safety Data Sheet (MSDS) for the TME substance. The MSDS shall comply with 29 CFR 1910.1200(g).

5. The Applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

a. Records of the quantity of the TME substance produced and the date of manufacture.

b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

c. Copies of the bill of lading that accompanies each shipment of the substance.

d. Copies of any determination under paragraph 2.a. above that the protective gloves used by the Applicant are impervious to the substance.

e. Copies of the labels affixed to containers of the substance or formulations containing the substance.

f. Copies of the MSDS for the TME substance.

T–96–4

Date of Receipt: April 18, 1996. The extended comment period will close (insert date 15 days after date of publication in the Federal Register).

Applicant: Confidential.

Chemical: (G) Alkylated-nitrosated-Benzene.

Use: Pesticide Intermediate.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: 12 months, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified concerns for acute toxicity, methemoglobinemia, oncogenicity, developmental toxicity, and mutagenicity based on analogous chemical substances. However, during manufacturing, processing, and use, exposure to workers will be prevented by protective gloves, clothing, and goggles. Therefore, the test market activities will not present an unreasonable risk of injury to human health.

Although EPA expects the TME substance to be toxic to aquatic organisms, no releases of the TME substance to surface waters are expected because it will be completely consumed in the reaction process and any residuals will be recycled. Therefore, the test market activities will not present an unreasonable risk of injury to the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

A record has been established for this notice under docket number [OPPT–59353] (including comments and data submitted electronically as described above). A public version of this record, including printed versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA nonconfidential information center (NCIC), Rm. NEB–607, 401 M St., SW., Washington, DC 20460.

The official record of this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

Environmental protection, test marketing exemptions.

Dated: June 7, 1996.

Paul J. Campanella,

Chief, New Chemicals Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 96–15284 Filed 6–14–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:05 a.m. on Tuesday, June 11, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Matters relating to the Corporation's supervisory activities.

Matters relating to the probable failure of an insured depository institution.

In calling the meeting, the Board determined, on motion of Director Joseph H. Neely (Appointive), seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Ms. Julie Williams, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Vice Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(5), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: June 12, 1996.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–15387 Filed 6–13–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Radisson Seven Seas Cruises, Inc., 600 Corporate Drive, Suite 410, Fort Lauderdale, Florida 33334
Vessel: Radisson Diamond.

Dated: June 12, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–15315 Filed 6–14–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Evans, Wood & Caulfield, Inc., 20 West Lincoln Avenue, Suite 301, Valley Stream, New York 11580, Officers: Patrick J. Caulfield, President; Valerie R. Caulfield, Exec. Vice President

Terrace Express, Inc., 1446 Terrace Drive, Downers Grove, IL 60516, Officers: Bee Ling Ma, President; Siew Pin Bong, Vice President

TT Freight Forwarders, Inc., 6695 NW 36th Avenue, Miami, FL 33147, Officers: John Morton, President; Georgina Gonzalez, Director.

Dated: June 12, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–15314 Filed 6–14–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 1, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Charles L. Spangler, Nixa, Missouri; to acquire an additional 22.23 percent, for a total of 43.29 percent, of the voting shares of Seligman Bancshares, Inc., Seligman, Missouri, and thereby indirectly acquire First Independent Bank, Seligman, Missouri.

Board of Governors of the Federal Reserve System, June 11, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–15277 Filed 6–14–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing 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, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 11, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Compass Bancshares, Inc., Birmingham, Alabama, Compass Banks of Texas, Inc., Birmingham, Alabama, and Compass Bancorporation of Texas, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of Texas American Bank, San Antonio, Texas.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Kingsbury BDC Financial Services, Inc., Ponca, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Dixon County, Ponca, Nebraska, and thereby indirectly acquire American State Bank, Newcastle, Nebraska.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Mutual Bancshares, Everett, Washington; to acquire 100 percent of the voting shares of Commercial Bank of

Everett, Everett, Washington (in organization).

Board of Governors of the Federal Reserve System, June 11, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–15278 Filed 6–14–96; 8:45 am]

BILLING CODE 6210–01–F

Consumer Advisory Council; Notice of Meeting of Consumer Advisory Council; Correction

The Consumer Advisory Council will meet on Thursday, June 27. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The meeting is expected to begin at 9:00 a.m. and to continue until 4:00 p.m., with a lunch break from 1:00 p.m. until 2:30 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Home Equity Lines of Credit. Discussion led by the Consumer Credit Committee on the Board's upcoming report to Congress on whether the Truth in Lending Act cost disclosure and other rules for home equity lines of credit provide adequate consumer protections. The Board's report may include suggestions for legislative revisions.

Community Reinvestment Act Reform. Discussion led by the Bank Regulation Committee on the results of the small bank examinations conducted since the implementation of revised CRA regulations.

Interim Report on Streamlining Mortgage Loan Closing Process. Discussion led by the Community Affairs and Housing Committee on its efforts, jointly with the Consumer Credit Committee, to identify and recommend areas to streamline the mortgage closing paperwork process.

Regulatory Coverage for Stored-Value Cards and Electronic Banking. Discussion led by the Depository and Delivery Systems Committee on the proposal by the Federal Reserve Board to exempt many types of stored-value cards from consumer protections included in Regulation E.

ATM Surcharges and Fees. Discussion led by the Depository and Delivery Systems Committee on proposed legislation governing ATM surcharges and fees.

Governor's Report. Report by Federal Reserve Board Member Lawrence B. Lindsey on economic conditions, recent Board initiatives, and issues of concern, with an opportunity for questions from Council members.

Members Forum. Presentation of individual Council members' views on the economic conditions present within their industries or local economies.

Committee Reports. Reports from Council committees on their work for 1996.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Deanna Aday-Keller, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Ms. Aday-Keller, 202-452-6470. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson, 202-452-3544.

Board of Governors of the Federal Reserve System, June 11, 1996.

William W. Wiles,

Secretary of the Board

[FR Doc. 96–15276 Filed 6–14–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Docket No. C–3655]

Amoco Oil Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, the Chicago-based corporation to possess competent and reliable scientific evidence to substantiate claims regarding the environmental benefits, engine performance, power, acceleration, or engine cleaning ability of any gasoline.

DATES: Complaint and Order issued May 7, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S–4002, Washington, D.C. 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: On Thursday, February 29, 1996, there was published in the Federal Register, 61 FR 7793, a proposed consent agreement with analysis In the Matter of Amoco Oil Company, for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered on order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 96–15300 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3653]

Azrak-Hamway International, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the New York-based manufacturers and distributors of toys from using deceptive demonstrations and certain other misrepresentations. In addition, the consent order requires the respondents to offer full refunds to consumers who bought Steel Tec toy vehicles, and to notify television stations that ran the challenged advertisements of the Commission action, and of the availability of guidelines for screening children's advertising.

DATES: Complaint and Order issued May 2, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Toby Levin, FTC/S–4002, Washington, D.C. 20580. (202) 326–3156.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On Thursday, February 22, 1996, there was published in the Federal Register, 61 FR 6841, a proposed consent agreement with analysis in the Matter of Azrak-Hamway International, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 96–15301 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3627]

Columbia/HCA Healthcare Corporation; Prohibited Trade Practices, and Affirmatives Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order, among other things, permits a Tennessee-based corporation to acquire John Randolph Medical Center in Hopewell, VA. and requires the respondent to divest, within 12 months, Poplar Springs Hospital, in Petersburg, VA., to a Commission-approved entity. In addition, the consent order requires the respondent, for 10 years, to notify the Commission before combining its psychiatric facility with any other psychiatric hospital facility in the Tri-Cities area of south central Virginia.

DATES: Complaint and Order issued November 24, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Oscar Voss, FTC/S–3115, Washington, D.C. 20580. (202) 326–2750.

SUPPLEMENTARY INFORMATION: On Tuesday, September 12, 1995, there was published in the Federal Register, 60 FR 47369, a proposed consent agreement with analysis In the Matter of Columbia/HCA Healthcare Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 96–15302 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3643]

The Dannon Company, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a New York-based frozen yogurt manufacturer from misrepresenting the amount of fat, calories, or cholesterol in any frozen yogurt products. The consent order requires the respondent to pay $150,000 to the U.S. Treasury. This action settles allegations stemming from nutritional claims made in advertisements for Dannon's Pure Indulgence frozen yogurt.

DATES: Complaint and Order issued March 18, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Peter Metrinko, FTC/S–4302, Washington, DC 20580, (202) 326–2104.

SUPPLEMENTARY INFORMATION: On Tuesday, December 12, 1995, there was published in the Federal Register, 60 FR 63715, a proposed consent agreement with analysis In the Matter of The Dannon Company, Inc., for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 96–15303 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3642]

Good News Products, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Michigan corporation from misrepresenting the fat or nutrient content of eggs or products containing egg yolks. In addition, the consent order prohibits the respondent from making health claims regarding such products unless it possesses reliable scientific evidence to substantiate the claims.

DATES: Complaint and Order issued February 22, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, FTC/Boston Regional Office, 101 Merrimac St., Suite 810, Boston, MA. 02114–4719. (617) 424–5960.

SUPPLEMENTARY INFORMATION: On Wednesday, July 5, 1995, there was published in the Federal Register, 60 FR 35027, a proposed consent agreement with analysis In the Matter of Good News Products, Inc., for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 96–15304 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3652]

Hughes Danbury Optical Systems, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federral law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the respondents from enforcing the exclusivity provisions contained in a teaming agreement—between Hughes Danbury Optical Systems, Inc. and Xinetics, Inc.—thereby ensuring that the Boeing Corp. team has a source for deformable mirrors other than Itek Optical Systems, once Itek is acquired by Hughes. The order also prohibits the respondents from accessing proprietary information from Itek regarding the Boeing team's airborne laser technical design or the cost of its adaptive optics system.

DATES: Complaint and Order issued April 30, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2308, Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: On Thursday, February 22, 1996, there was published in the Federal Register, 61 FR 6847, a proposed consent agreement with analysis In the Matter of Hughes Danbury Optical Systems, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 96–15305 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. C–3645]

Johnson & Johnson; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, a New Jersey-based manufacturer of health care products to divest, within 12 months, the Cordis Neuroscience Business to a Commission-approved acquirer. If the transaction is not complete as required, then the Commission may appoint a trustee.

DATES: Complaint and Order issued March 19, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2308, Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: On Tuesday, January 2, 1996, there was published in the Federal Register, 61 FR 66, a proposed consent agreement with analysis In the Matter of Johnson & Johnson, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 96–15307 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3216]

L'Air Liquide S.A., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1987 consent order—which required L'Air Liquide to divest certain specified air separation gases assets and required prior Commission approval before making certain acquisitions—and sets aside the consent order pursuant to the Commission's Prior Approval Policy Statement, under which the Commission presumes that the public interest requires setting aside the prior approval requirements in outstanding merger orders and making them consistent with the policy.

DATES: Consent order issued July 15, 1987. Set aside order issued February 15, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S–2115, Washington, D.C. 20580. (202) 326–2526.

SUPPLEMENTARY INFORMATION: In the Matter of L'Air Liquide S.A., et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 96–15308 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3656]

Litton Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, the California-based corporation to divest, within ninety days, PRC, Inc.'s $40 million systems engineering and technical assistance contract for the Navy's Aegis destroyer program. If the divestiture is not completed as required,

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Consent Order and Set Aside Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

the Commission may appoint a trustee to finalize the divestiture.

DATES: Complaint and Order issued May 7, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2308, Washington, DC 20580, (202) 326–2682.

SUPPLEMENTARY INFORMATION: On Monday, February 26, 1996, there was published in the Federal Register, 61 FR 7105, a proposed consent agreement with analysis In the Matter of Litton Industries, Inc., for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 96–15309 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3644]

Mama Tish's Italian Specialties, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, an Illinois ice cup dessert manufacturer from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product.

DATES: Complaint and Order issued March 19, 1996.[1]

FOR FURTHER INFORMATION CONTACT: C. Steven Baker, FTC/Chicago Regional Office, 55 E. Monroe St., Suite 1437, Chicago, IL. 60603. (312) 353–8156.

[1] Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On Wednesday, January 3, 1996, there was published in the Federal Register, 61 FR 168, a proposed consent agreement with analysis In the Matter of Mama Tish's Italian Specialties, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 96–15310 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 6600]

P. Lorillard Co.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1958 consent order—which required Lorillard to offer compensation for promotional services on proportionally equal terms to all competing companies that distribute its tobacco and other products—and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued May 7, 1958. Set aside order issued August 24, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, FTC/S–2115, Washington, D.C. 20580. (202) 326–2861.

SUPPLEMENTARY INFORMATION: In the Matter of P. Lorillard Co. The prohibited trade practices and/or corrective actions are removed as indicated.

[1] Copies of the Consent Order and SEt Aside Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13.

Donald S. Clark,

Secretary.

[FR Doc. 96–15311 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3654]

Starwood Advertising, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Colorado-based advertising agency and its officer from using deceptive demonstrations and certains other misrepresentations in future advertising campaigns.

DATES: Complaint and Order issued May 2, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Toby Levin, FTC/S–4002, Washington, D.C. 20580. (202) 326–3156.

SUPPLEMENTARY INFORMATION: On Thursday, February 22, 1996, there was published in the Federal Register, 61 FR 6851, a proposed consent agreement with analysis In the Matter of Starwood Advertising, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Donald S. Clark,

Secretary.

[FR Doc. 96– 15312 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[Dkt. C–3641]

WLAR Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Virginia-based corporation and its officer from making unsubstantiated representations for their weight-loss booklets, products or program. The consent order requires the respondents to provide, in future advertisements, a disclosure statement that the products consist solely of a booklet or pamphlet containing information and advice on weight-loss.

DATES: Complaint and Order issued February 21, 1996.[1]

FOR FURTHER INFORMATION CONTACT:

Richard Cleland, FTC/S–4002, Washington, D.C. 20580. (202) 326–3088.

SUPPLEMENTARY INFORMATION: On Wednesday, June 21, 1995, there was published in the Federal Register, 60 FR 32324, a proposed consent agreement with analysis In the Matter of WLAR Co., et al., for the purpose of soliciting public comment. Interest parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Donald S. Clark,

Secretary.

[FR Doc. 96–15313 Filed 6–14–96; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration; Statement of Organization, Functions, and Delegations of Authority

Part M of the Substance Abuse and Mental Health Services Administration (SAMHSA) Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services is amended as follows: Part M as amended most recently at 60 FR 56606, November 9, 1995 and 57 FR 53907, November 13, 1992. The changes in SAMHSA will: (1) reflect the formal establishment of Part M, Substance Abuse and Mental Health Services Administration, as an Operating Division reporting directly to the Secretary of Health and Human Services and (2) streamline the administrative structure, strengthen SAMHSA's programs, and more effectively utilize the Agency's resources.

Specific major changes are as follows:

a. Remove Part HM from the Statement of Organization, Functions, and Delegations of Authority to Part M, Substance Abuse and Mental Health Services Administration.

b. Abolish the Office of Extramural Programs (HMA5) and the Office for Management, Planning, and Communications (HMB), along with their functional responsibilities.

c. Establish a new Office of Program Services (MB).

d. Establish a new Office of Extramural Activities Review (ME).

e. Remove the Office of Applied Studies (HMA8) from the Office of the Administrator and establish it as an independent component.

f. Formalize the minority affairs functions as part of the Office of the Administrator (MA).

g. Establish a new Office of Managed Care as part of the Office of the Administrator (MA).

Establish Part M, Substance Abuse and Mental Health Services Administration (SAMHSA), of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services to read as follows:

Substance Abuse and Mental Health Services Administration

M.00 Mission
M.10 Organization
M.20 Functions
M.30 Order of Succession
M.40 Delegations of Authority

Section M.00, Mission. The Substance Abuse and Mental Health Services Administration (SAMHSA) provides national leadership to ensure that knowledge, based on science and state-of-the-art practice, is effectively used for the prevention and treatment of addictive and mental disorders. Further, SAMHSA strives to improve access and reduce barriers to high quality, effective programs and services for individuals who suffer from, or are at risk for, these disorders, as well as for their families and communities.

Section M–10, Organization. The Substance Abuse and Mental Health Services Administration is an Operating Division under the direction of an Administrator who reports directly to the Secretary.

Section M–20, Functions.—A. *Office of the Administrator (MA)* The Administrator is responsible to the Secretary in managing and directing SAMHSA. The office functions are as follows: (1) Provides leadership in the development of agency policies and programs; (2) maintains liaison with the Office of the Secretary on matters related to program and other activities; (3) provides oversight for coordination between SAMHSA components and the alcohol, drug abuse, and mental health Institutes of National Institutes of Health (NIH) on dissemination of research findings in the areas of alcohol, drug abuse, and mental health; (4) provides leadership and guidance in developing and implementing Agency plans to meet women's substance abuse and mental health services needs; (5) coordinates Agency minority affairs activities; (6) coordinates managed care activities in the Agency; (7) provides Agency correspondence control services; (8) analyzes legislative issues; and maintains liaison with congressional committees; (9) develops Agency strategic plans and conducts, analyzes, and supports future planning activities; (10) coordinates Agency communications and public affairs activities; (11) carries out SAMHSA-wide functions such as coordination of equal employment opportunity activities; and (12) coordinates Agencywide AIDS activities.

B. *Office of Program Services (MB).* The Office of Program Services (OPS) works in partnership with other SAMHSA components in managing and providing leadership in the following services areas: information resources management (IRM), financial management, human resources management, grants and contracts management, and administrative services.

C. *Office of Applied Studies (MC).* (1) Coordinates, interprets policy and provides general oversight of all SAMHSA data activities; (2) identifies

gaps in data gathering activities and works with agency components to implement comprehensive, appropriate and responsive data gathering efforts; (3) serves as a repository of information on data related to mental illness and substance abuse, including both Federal and non-Federal efforts; (4) analyzes survey data for the purpose of report preparation in response to specific requests for information; (5) reviews program evaluation efforts of the agency; (6) manages the 1 percent evaluation process; (7) undertakes special projects either directly or through coordination with agency components and other Federal agencies to address topical areas; (8) manages the Office of Management and Budget clearance process for SAMHSA data surveys; (9) oversees national substance abuse and mental health surveys, such as the National Household Survey on Drug Abuse (NHSDA), the Drug Abuse Warning Network (DAWN) and the Drug and Alcohol Services Information System (DASIS); (10) provides oversight and management of those surveys for which the Office is responsible for either directly or through contract; (11) evaluates the relevance of existing surveys to the needs of SAMHSA components, HHS, and the Office of National Drug Control Policy (ONDCP); (12) prepares reports of the survey finds for dissemination; and (13) provides epidemiologic and statistical consultation within SAMHSA for other components of the Administration and Centers.

D. *Office of Extramural Activities Review (ME).* (1) establishes extramural review policy for SAMHSA, in consultation with the Office of the Administrator and the three SAMHSA Centers; (2) administers the peer and objective review of agency grant/cooperative agreement applications and contract proposals; and (3) consults with agency officials as they develop announcements for grants and cooperative agreements.

E. *Center for Substance Abuse Prevention (MP).* The Center for Substance Abuse Prevention (CSAP) provides a national focus for the Federal effort to prevent substance abuse. In carrying out this responsibility, the Center: (1) provides a national focus for the Federal effort to demonstrate and promote effective strategies to prevent the abuse of alcohol, tobacco, and other drugs; (2) develops, implements, and reviews prevention and health promotion policy related to substance abuse and analyzes the impact of Federal activities on State and local Governments and private program activities; (3) administers grants, contracts, and cooperative agreements which support the development and application of new knowledge in the substance abuse prevention field; (4) participates in the application and dissemination of research demonstration findings on the prevention of substance abuse; (5) fosters interagency and State prevention networks; (6) develops and implements workplace prevention programs with business and industry; (7) supports training for substance abuse practitioners and other health professionals involved in alcohol and drug abuse education, prevention, and early intervention; (8) provides technical assistance to States and local authorities and other national organizations and groups in the planning, establishment, and maintenance of substance abuse prevention efforts; (9) reviews and approves and/or disapproves the State Prevention Plans developed under the Substance Abuse Prevention and Treatment Block Grant Program authority; (10) implements the tobacco regulations and other regulations, as appropriate, and as they relate to CSAP's programs; (11) collects and compiles substance abuse prevention literature and other materials, and supports a clearinghouse to disseminate such materials among States, political subdivisions, educational agencies and institutions, health and drug treatment/rehabilitation networks, and the general public; (12) serves as a national authority and resource for the development and analysis of information relating to the prevention of substance abuse; (13) collaborates with, and encourages other Federal agencies, national, foreign, international, State and local organizations to promote substance abuse prevention activities; (14) provides and promotes the evaluation of individual projects as well as overall programs; (15) collaborates with the alcohol, drug abuse, mental health, and child development Institutes of the National Institutes of Health on services research issues as well as on other programmatic issues; and (16) conducts managed care activities and coordinates these activities with SAMHSA and other DHHS components; and (17) provides a focus for addressing the substance abuse prevention needs of individuals with multiple, co-occurring drug, alcohol, mental, and physical problems.

F. *Center for Mental Health Services (MS).* The Center for Mental Health Services (CMHS) provides national leadership to ensure the application of scientifically established findings and practice-based knowledge in the prevention and treatment of mental disorders; to improve access, reduce barriers, and promote high quality effective programs and services for people with, or at risk for, these disorders; as well as for their families and communities; and to promote an improved state of mental health within the Nation as well as the rehabilitation of people with mental disorders. To accomplish this, the Center: (1) supports service and demonstration programs designed to improve access to care and improve the quality of treatment, rehabilitation, prevention, and related services, especially for those traditionally unserved, underserved, or inappropriately served; (2) identifies national mental health goals and develops strategies to meet them; (3) administers grants, contracts, and cooperative agreements which support the development and application of new knowledge in the mental health field; (4) supports activities to improve the administration, availability, organization, and financing of mental health care, including managed care activities; (5) supports technical assistance activities to educate professionals, consumers, family members, and communities, and promotes training efforts to enhance the human resources necessary to support mental health services; (6) collects data on the various forms of mental illness, including data on treatment programs, on the type of care provided, on the characteristics of those treated, on national incidence and prevalence, and such other data as may be appropriate; (7) administers the Block Grants for Community Mental Health Services and other programs providing direct assistance to States; (8) collects, synthesizes, and disseminates mental health information and research findings to the States, other governmental and mental health-related organizations, and the general public; (9) coordinates and plans administrative and budget functions within the Center; (10) collaborates with other Federal agencies/departments, State and sub-state units of Government, and the private sector to improve the system of treatment and social welfare supports for seriously mentally ill adults and severely emotionally disturbed children and adolescents; (11) conducts activities to promote advocacy, self-help, and mutual support and to ensure the legal rights of mentally ill persons, including those in jails and prisons; (12) cooperates with other Federal components to coordinate disaster assistance, community response, and

other mental health emergency services as a consequence of national disasters; (13) collaborates with the alcohol, drug abuse, and mental health Institutes of the National Institutes of Health on services research issues as well as on other programmatic issues; (14) promotes the development, dissemination, and application of standards and best practices; and (15) provides a focus for addressing the mental health needs of individuals with multiple, co-occurring drug, alcohol, mental, and physical problems.

G. *Center for Substance Abuse Treatment (MT).* The principal function of the Center is to provide national leadership for the Federal effort to enhance approaches and provide resources to ensure provision of services' programs focusing on the treatment of substance abuse and co-occurring physical and/or psychiatric conditions. In carrying out this responsibility, the Center for Substance Abuse Treatment: (1) collaborates with States, communities, health care providers and national organizations to upgrade the quality of addiction treatment, to improve the effectiveness of substance abuse treatment programs, and to provide resources to ensure provision of services; (2) provides a focus for addressing the treatment needs of individuals with multiple, co-occurring drug, alcohol, mental, and physical and co-morbidity problems; (3) administers grants, contracts, and cooperative agreements which support the development and application of new knowledge in the substance abuse treatment field; (4) coordinates the evaluation of the Center's programs; (5) collaborates with the National Institute on Drug Abuse (NIDA) and the States to promote development, dissemination, and application of treatment outcome standards; (6) collaborates with the Office of the Administrator and other SAMHSA components in treatment data collection; (7) administers programs for training of health and allied health care providers (8) administers the Substance Abuse Prevention and Treatment Block Grant Program including compliance reviews, technical assistance to States, Territories, and Indian Tribes, and application and reporting requirements related to the block grant programs; (9) conducts managed care activities and coordinates these activities with SAMHSA and other DHHS components; (10) collaborates with alcohol, drug abuse, and mental health Institutes of National Institutes of Health on services research issues as well as on other programmatic issues.

Section M–30, Order of Succession. During the absence or disability of the Administrator, SAMHSA, or in the event of a vacancy in that office, the first official listed below would perform the duties of the Administrator, except that during a planned period of absence, the Administrator may specify a different order of succession: (1) Deputy Administrator; and (2) Executive Officer, SAMHSA.

Section M–40, Delegations of Authority. All delegations and redelegations of authority to officers and employees of SAMHSA which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegation, providing they are consistent with this reorganization.

These organizational changes are effective June 10, 1996.

Dated: June 10, 1996.

Nelba Chavez,

Administrator.

[FR Doc. 96–15340 Filed 6–14–96; 8:45 am]

BILLING CODE 4160–01–M

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511):

Title of Information Collection: State Performance Report (SPR): Reporting Requirements for Titles III and VII of the Older Americans Act;

Type of Request: Extension and Revision;

Use: To revise an existing information collection form to conform to amendments to the Older Americans Act which directed the Administration on Aging to improve State reporting requirements;

Frequency: Annually;

Respondents: State Agencies on Aging;

Estimated Number of Responses: 57;

Total Estimated Burden Hours: 300,000.

Additional Information or Comments: The Administration on Aging intends to submit to the Office of Management and Budget for approval a new reporting system for the State programs under the Older Americans Act. AoA printed a similar set of reporting specifications in the Federal Register on February 13, 1996 requesting a two year phase-in of the reporting requirements starting in FY 1996. Most of the 15 respondents support implementation of the SPR. However 5 raised cost considerations in light of dwindling resources for services to the elderly. While one respondent objected to a requirement to collect information on the nutritional status of congregate meals clients, 5 other respondents strongly advocate that the information be collected. The remaining comments relate to technical changes which have been made and to administrative issues which AoA will address through training and operational adjustments. Call the Administration on Aging, Office of State and Community Programs at (202) 619–0011 for copies of the proposed reporting requirements. Written comments and recommendations for the proposed information collection requirements should be sent within 30 days of the publication of this notice directly to the following address: OMB Reports Management Branch, attention: Allison Eydt, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: June 6, 1996.

William F. Benson,

Deputy Assistant Secretary for Governmental Affairs and Elder Rights.

[FR Doc. 96–15218 Filed 6–14–96; 8:45 am]

BILLING CODE 4150–04–M

Public Comment Regarding Proposed Guidance on the Use of Medical Food and Food for Special Dietary Uses in Older Americans Act Nutrition Programs

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, is requesting public comment on a proposed Program Instruction regarding the use of medical food and food for special dietary uses in Older Americans Act Nutrition Programs.

Type of Request: Public comment.

Use: To inform the Administration on Aging decision making process regarding the use of medical food and food for special dietary uses in Older Americans Act Nutrition Programs.

Additional Information or Comments: The proposed Program Instruction provides guidance regarding the appropriate use and federal funding of medical food and food for special dietary uses in Older Americans Act (OAA) Nutrition Programs for States, Tribes and Area Agencies on Aging.

Background

The aging network is being challenged to serve an increasing number of frailer, functionally impaired older individuals. Many community dwelling elders are at increased nutritional risk due to chronic/acute diseases and conditions, including, but not limited to, physical, oral and mental health problems, that remain after discharge from acute, subacute or long-term care facilities. With development of home and community-based long-term care services, the aging network has been called upon to meet nutritional needs of elders that go beyond the typical one-meal-a-day service. State Units on Aging (SUAs), Area Agencies on Aging (AAAs), and Nutrition Service Providers (NSPs) have expanded nutrition services beyond meals to meet the varying nutritional needs and functional capabilities of growing numbers of impaired elders.

Private industry has also recognized the expanding home and community care market. As care of frailer elders has expanded beyond hospitals and nursing homes, pharmaceutical companies have begun marketing products to home health agencies, home and community-based care providers, nutrition service providers, caregivers, and elders themselves. Companies have developed a wide range of products, such as thickeners, shake-type beverages, soups, bars, puddings, cookies, etc., which are specifically formulated and labeled to meet the nutritional requirements or dietary needs of elders who, due to a disease or health-related condition, cannot meet their nutritional requirements using only conventional food. While often known by a variety of names, such as nutrition supplements, ''liquid meals,'' oral supplements, the most appropriate statutory terms are medical food and food for special dietary uses. Although some SUAs, AAAs, and NSPs across the country have developed policy regarding the use and funding of these special products, AoA has not provided guidance on this topic in the past.

Terminology

Public Law 100–290, The Orphan Drug Amendment of 1988, April 18, 1988, defines *medical food* as

> food which is formulated to be consumed or administered entirely under supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

According to section 201 of the Federal Food, Drug, and Cosmetic Act of 1932, as amended, the term *food for special dietary uses,*

> as applied to food for man, means particular (as distinguished from general) uses of food, as follows: (i) uses for supplying particular dietary needs which exist by reason of a physical, physiological, pathological or other condition, including but no limited to the conditions of diseases, convalescence, * * * underweight and overweight; (ii) uses for supplying particular dietary needs which exist by reason of age, * * *; (iii) uses for supplementary or fortifying the ordinary or usual diet with any vitamin, mineral or other dietary property.

Food and Health

Every effort should be made to meet the special nutritional needs of elders by using conventional food. Food meets physiological needs for energy, nutrients and bulk (fiber). Food also has important physchological, social and functional value. Conventional food and beverages, particularly those that are nutrient dense are always the first therapeutic approach to improving or modifying diets for individuals who can consume regular food and beverages and are not severely malnourished. Texture modification of regular food is the first approach to chewing or swallowing problems. At times, however, regular foods and beverages, even those modified in texture or nutrient content, may not be enough. It may then be appropriate to consider medical food and food for special dietary uses.

Medical nutrition therapy is the assessment of the nutritional status of an individual with a condition, illness, or injury that puts them at nutritional risk and the provision of nutrition support either as diet modification and counseling or as specialized nutrition therapies designed to achieve nutritional goals and desired health outcomes. Specialized nutrition therapies may include the use of medical food and food for special dietary uses that are administered by oral (mouth) and non-oral (nasogastrically, enterally (gut)) routes. Medical food and food for special dietary uses that are administered parenterally (by vein) are classified as drugs. Nutrition support may be an important component of the clinical management of chronic diseases, such as heart, lung, kidney diseases, stroke, diabetes, and some types of cancer. Nutrition support may also be a clinical management component used in the treatment of acute conditions, such as fractures, pre/post surgery, burns and other traumas. Oral health problems, more prevalent among older individuals, may require nutrition support. Oral health problems, such as loss of teeth, gingivitis, changes in salivary function and sense of taste, affect chewing and swallowing and alter the type and quantity of food that can be eaten. Mental health problems, such as dementia, depression and Alzheimer's disease, interfere with dietary quality and quantity and therefore may need nutrition support. Medication side effects influence appetite and mental functioning. Texture modification (chopping, pureeing, thickening, blending) and supplementation (additional protein, carbohydrate, fat, fiber) of conventional food are considered nutrition support for some physical, oral and mental problems.

Policy Instruction

Subpart 132.11 of the current OAA regulations state that:

> (a) The State agency on aging shall develop policies governing all aspects of programs operated under this part * * * These policies shall be developed in consultation with other appropriate parties in the State * * *

A Tribe is likewise expected to develop policies governing program operations.

A State or Tribe may choose to allow the provision of medical food and food for special dietary uses and to use OAA and USDA funds if the SUA or Tribal policy complies with

- Statutory terminology for medical food and food for special dietary uses;
- Appropriate Use Guidelines (stated below) for substitution for a meal component(s) and/or replacement of a conventional meal; and
- Federal, State, Tribal, and local laws, regulations, policies and guidelines.

Appropriate Use Guidelines

AoA would allow funding and USDA would reimburse on a per meal basis for medical food and/or food for special dietary uses when:

- Criteria for the allowable medical food or food for special dietary use are met;
- There is a recommendation by an appropriate health professional such as a physician or registered/licensed dietitian as part of an overall medical nutrition therapy plan for the individual and the plan is periodically reevaluated and updated;
- The individual is provided with a minimum of 33⅓ percent of the Recommended Dietary Allowances established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, except in cases where the individual's

specific medical nutrition therapy plan dictates otherwise; and

• If the medical food and/or food for special dietary uses is/are used as a:

• Substitution for part of the conventional meal components, the *combination* of the medical food or food for special dietary use *and* conventional foods must meet the above criteria; or

• Replacement of a conventional meal, they must meet the above criteria and consumption of a conventional meal, even with modifications, had been considered but is contraindicated.

When a medical food and/or food for special dietary uses are provided in addition to a conventional meal, AoA and USDA view the meal *and* medical food or food for special dietary uses *together* as constituting a single meal and would not reimburse separately.

Additional Information

A paper, ''Use of Medical Food and Food for Special Dietary Uses in Elderly Nutrition Programs'', authored by the National Policy and Resource Center on Nutrition and Aging (Center), summarizes the appropriate use of medical food and food for special dietary uses in a question and answer format. In addition, the Center has compiled information on state policies on this topic, ''State Policies on Provision of Medical Food and Food for Special Dietary Uses.'' Both publications are available from the Administration on Aging, Office of State and Community Programs; please call (202) 619–0011 for copies of the paper and compilation. Written comments and recommendations regarding the proposed guidance should be sent within 60 days of the publication of this notice directly to the following address: Edwin L. Walker, Director, Office of Program Operations and Development, Administration on Aging, 330 Independence Avenue, SW., Washington, DC 20201.

Dated: June 5, 1996.

William F. Benson,

Deputy Assistant Secretary for Govenmental Affairs and Elder Rights.

[FR Doc. 96–15217 Filed 6–14–96; 8:45 am]

BILLING CODE 4150–04–M

Administration for Children and Families

[OCS–96–09]

Youth Education and Domestic Violence Model Programs

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Notice and call for information on current youth education and domestic violence programs to be considered as model projects for evaluation and possible nationwide distribution.

SUMMARY: The Department of Health and Human Services (DHHS) is authorized, in consultation with the Secretary of Education, to ''select, implement, and evaluate four separate model programs for the education of young people about domestic violence and violence among intimate partners.'' The model programs must address one of four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education, and shall be selected, implemented, and evaluated in consultation with ''educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions, and resource centers.''

As a first step, we want to identify and solicit information on programs for the education of young people about domestic violence and violence among intimate partners that are being conducted for one or more of the four student audiences. This announcement contains all instructions for submitting information on youth education programs.

DATES: The closing date for submission of program information is August 16, 1996.

ADDRESSES: Program information may be mailed to the U.S. Department of Health and Human Services, Administration for Children and Families/Office of Community Services, (OCS–96–09), 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, DC 20447.

Hand delivered program information is accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center 901 D Street, SW., Washington, DC 20447, between Monday and Friday (excluding Federal holidays).

SUPPLEMENTARY INFORMATION: The Youth Education and Domestic Violence program is authorized by section 317 of the Family Violence Prevention and Services Act (the Act), 42 U.S.C. 10417, as amended by Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994.

Congress has made available $400,000 to carry out the provisions of section 317.

The Office of Community Services, Administration for Children and Families (OCS) will select and evaluate four types of model programs for the education of four specified audiences of young people about domestic violence and violence among intimate partners. Six to eight programs will be selected to participate in a national evaluation of their efforts. These programs may be recommended to Congress for possible future nationwide distribution.

Specifically, OCS will proceed as follows:

First, we will convene an expert panel to:

(a) Help identify youth education and domestic violence programs for evaluation;

(b) Assist in the development of criteria to be used in the preliminary selection of programs to be evaluated; and

(c) Assist in the design and development of the evaluation study.

Second, we are actively soliciting information about and descriptions of current youth education programs. We are using this Federal Register notice, Department of Education (DOE) networks, professional publications, national resource centers, the electronic media, and other mechanisms to request information about such programs.

Third, the expert panel will assist the DHHS and DOE to review the information on programs received and select at least six but no more than eight for the evaluation.

We do not have a pre-conceived model or educational approach in mind. We are interested in obtaining information on the more outstanding programs being implemented. These programs may include, for example, training curricula, print and visual training aids (as audiovisual components of a structured and more comprehensive program), and model programs that may be school or non-school based. They may include a range of subject matter topics as appropriate to the specific student audience, such as interpersonal violence prevention, self-esteem training for girls, conflict resolution, and the prevention of acquaintance rape and other forms of sexual abuse and violence developed for the high school and college population.

PROGRAM INFORMATION REQUESTED: The information on the youth education programs should be narrative and not exceed 30 pages in length. Program descriptions should include:

A. Identifying Information

—Name of the Program
—Name and Address of the Sponsoring Organization

—Program Director, Telephone and Fax numbers
—Period of Time Program has Operated

B. Description of the Program

—Goals and objectives of the program
—Target audience
—Description of the program activities and how they are designed to achieve the goals and objectives
—Referral activities, if any
—Evaluation results, if any
—Funding Source(s)
—Current Operating Budget
—Problems or Constraints Identified
—Major Changes and/or modifications in the program
—Current dissemination or replication activities
—Future planned activities

C. Commitment to Participate in a National Evaluation

A statement by the program director or other responsible official indicating a commitment to participate with the program in a national study. We will consider, on a case-by-case basis, the reimbursement of extraordinary costs directly incident to a selectee's participation in the national study.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447. Telephone William Riley, (202) 401–5529 or Trudy Hairston (202) 401–5319.

Dated: June 12, 1996.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 96–15322 Filed 6–14–96; 8:45 am]

BILLING CODE 4184–01–P

Health Resources and Services Administration

Notification of Expiring Project Periods for Health Care for the Homeless and Health Care Services for Homeless Children Programs

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that a total of 16 Health Care for the Homeless (HCH) grantees and 1 Health Care for Homeless Children grantee will reach the end of their project periods during fiscal year (FY) 1997. Assuming the availability of sufficient appropriated funds in FY 1997, it is the intent of HRSA to continue to support health services to the homeless populations in these areas/locations given the continued need for cost-effective, community-based primary care services for these medically underserved populations within these geographic areas.

This notice provides interested parties the opportunity to gather information and decide whether to pursue Federal funding as a HCH program grantee. During this process, communication with Regional Office staff is essential (see Appendix I). A subsequent notice will be published in the Federal Register to announce the availability of funds for FY 1997 and provide application and detailed information on the grant review criteria.

DUE DATES: Current grant expiration dates vary by grantee throughout FY 1997. Applications for competing continuation grants are normally due 120 days prior to the expiration of the current grant award. However, to allow potential applicants sufficient time to prepare application materials for those areas in which grants are expiring on October 31, 1996, applications for grants beginning November 1, 1996 will be due 90 days prior to the expiration of the current grant award or no later than August 1, 1996.

SUPPLEMENTARY INFORMATION: The HCH program is carried out currently under the authority of section 340 of the Public Health Service Act. The HCH program is designed to increase the homeless population's access to cost-effective, case managed, and integrated primary care and substance abuse services provided by existing community-based programs/providers. In addition, the Health Care Services for Homeless Children's program provides comprehensive primary health services to homeless children and to children at imminent risk of homelessness.

The list of areas in which a current homeless project period expires in FY 1997 is set forth in Appendix II. The areas listed include the city. Further information including the census tract, if applicable, can be obtained by contacting the appropriate PHS regional office (see Appendix I).

A project period is the total amount of time for which a grant has been programmatically approved. For purposes of this notice, grant awards will be made for a one year budget period and up to a five year project period.

Dated: June 11, 1996.

Ciro V. Sumaya,

Administrator.

Appendix I—Regional Office Staff

Region I:
Robin Lawrence, D.D.S., Acting Director, Division of Health Services Delivery, DHHS—Region I, John F. Kennedy Federal Building #1401, Boston, MA 02203, (617) 565–1463

Region II:
Ronald Moss, Director, Division of Health Services Delivery, DHHS—Region II, 26 Federal Plaza, New York, NY 10278, (212) 264–2664

Region III:
Bruce Riegel, Director, Division of Health Services Delivery, DHHS—Region III, 3535 Market Street, Philadelphia, PA 19104, (215) 596–1885

Region IV:
Robert Jackson, Director, Division of Community Health Service, DHHS—Region IV, 101 Marietta Tower, Atlanta, GA 30323, (404) 331–0250

Region V:
Deborah Willis, M.D., Acting Director, Division of Health Services Delivery, DHHS—Region V, 105 West Adams Street, 17th Floor, Chicago, IL 60603, (312) 353–1711

Region VI:
Frank Cantu, Acting Director, Division of Health Services Delivery, DHHS—Region VI, 1200 Main Tower, Dallas, TX 75202, (214) 767–6547

Region VII:
Ray Maddox, Director, Division of Health Services Delivery, DHHS—Region VII, 601 East 12th Street, Kansas City, MO 64106, (816) 426–5226

Region VIII:
Barbara Bailey, Director, Division of Health Services Delivery, DHHS—Region VIII, 1961 Stout Street, Denver, CO 80294, (303) 844–3203

Region IX:
Gordon Soares, Director, Division of Health Services Delivery, DHHS—Region IX, 50 United Nations Plaza, San Francisco, CA 94102, (415) 437–8568

Region X:
Douglas Woods, Director, Division of Health Services Delivery, DHHS—Region X, 2201 Sixth Avenue, Seattle, WA 98121, (206) 615–2491

Appendix II—Listing of HCH Grantees Sorted by Region, State, and City

State and City	Project period ending date
AZ: PHOENIX	10/31/96
Total Number of Grantees in the State of: AZ	1
CT: HARTFORD	12/31/96

State and City	Project period ending date
Total Number of Grantees in the State of: CT	1
FL:.	
MIAMI	10/31/96
TAMPA	03/31/97
Total Number of Grantees in the State of: FL	2
IN: INDIANAPOLIS	05/31/97
Total Number of Grantees in the State of: IN	1
MI:	
BATTLE CREEK	10/31/96
DETROIT	10/31/96
GRAND RAPIDS	10/31/96
Total Number of Grantees in the State of: MI	3
MN:	
ST. PAUL	01/31/97
ST. PAUL	01/31/97
Total number of Grantees in the State of: MN	2
NE: OMAHA	01/31/97
Total Number of Grantees in the State of: NE	1
NY: NEW YORK	10/31/96
Total Number of Grantees in the State of: NY	1
OH:	
COLUMBUS	10/31/96
TOLEDO	11/30/96
Total Number of Grantees in the State of: OH	2
SD: RAPID CITY	01/31/97
Total Number of Grantees in the State of: SD	1
TX: LUBBOCK	06/30/97
Total Number of Grantees in the State of: TX	1
WA: SPOKANE	10/31/96
Total Number of Grantees in the State of: WA	1
Total Number of Grantees	17

[FR Doc. 96–15255 Filed 6–14–96; 8:45 am]

BILLING CODE 4160–15–U

Office of Inspector General

Publication of OIG Special Fraud Alert: Fraud and Abuse in the Provision of Services in Nursing Facilities

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: This Federal Register notice sets forth a recently issued OIG Special Fraud Alert concerning fraud and abuse practices in the provision of medical and other health services to residents of nursing facilities. For the most part, OIG Special Fraud Alerts address national trends in health care fraud, including potential violations of the Medicare anti-kickback statute. This Special Fraud Alert, issued directly to the health care provider community and now being reprinted in this issue of the Federal Register, specifically identifies and highlights some of the illegal practices that the OIG has uncovered in the provision of nursing facility services.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, Office of Management and Policy, (202) 619–0089.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Inspector General (OIG) issues Special Fraud Alerts based on information it obtains concerning particular fraudulent and abusive practices within the health care industry. These Special Fraud Alerts provide the OIG with a means of notifying the industry that we have become aware of certain abusive practices which we plan to pursue and prosecute, or bring civil and administrative action, as appropriate. The Alerts also serve as a powerful tool to encourage industry compliance by giving providers an opportunity to examine their own practices.

The Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as those charged with administering the Medicare and Medicaid programs. On December 19, 1994, the OIG published in the Federal Register the texts of 5 previously-issued Special Fraud Alerts (59 FR 65372), and indicated our intention of publishing all future Special Fraud Alerts in this same manner as a regular part of our dissemination of this information. Two additional OIG Special Fraud Alerts addressing home health fraud and fraud and abuse provisions of medical supplies in nursing facilities was published in the Federal Register on August 10, 1995 (60 FR 40847).

With regard to the provision of health care services reimbursed by Medicare and Medicaid to nursing facilities, this newly-issued Special Fraud Alert highlights such fraudulent practices as (1) making claims for services not rendered or not provided as claimed, and (2) the submission of claims falsified to circumvent coverage limitations on medical specialties. A reprint of this Special Fraud Alert follows.

II. Special Fraud Alert: Fraud and Abuse in the Provision of Services in Nursing Facilities (May 1996)

The Office of Inspector General (OIG) was established at the Department of Health and Human Services by Congress in 1976 to identify and eliminate fraud, waste and abuse in Health and Human Services programs and to promote efficiency and economy in departmental operations. The OIG carries out this mission through a nationwide program of audits, investigations and inspections.

To help reduce fraud and abuse in the Medicare and Medicaid programs, the OIG actively investigates schemes to fraudulently obtain money from these programs and, when appropriate, issues Special Fraud Alerts which identify segments of the health care industry that are particularly vulnerable to abuse. This Special Fraud Alert focuses on the provision of medical and other health care services to residents of nursing facilities and identifies some of the illegal practices that the OIG has uncovered.

How Nursing Facility Benefits Are Reimbursed

There were 17,000 nursing facilities in the United States, as of June 1995. An OIG study reported that in 1992, Medicare payments to nursing facilities included Part B payments of $2.7 billion and Part A payments of $3.1 billion for covered stays in nursing facilities. When the Federal share of the $24 billion spent by Medicaid is factored in, the Federal cost of nursing care reached a total of approximately $20 billion.

Many nursing facilities receive reimbursement from both Medicare and Medicaid for care and services provided to eligible residents. Under Medicare Part A, skilled nursing facility services are paid on the basis of cost for covered stays of a limited length. Nursing facility residents may be concurrently eligible for benefits under Medicare Part B. For Medicaid-eligible residents, extended nursing facility stays may be reimbursed by state-administered programs financed in part by Medicaid.

Nursing facilities and their residents have become common targets for fraudulent schemes. Nursing facilities represent convenient resident ''pools'' and make it lucrative for unscrupulous persons to carry out fraudulent schemes. The OIG has become aware of a number of fraudulent arrangements by which health care providers, including medical professionals, inappropriately bill Medicare and Medicaid for the provision of unnecessary services and services which were not provided at all. Sometimes, nursing facility management and staff also are involved in these schemes.

False or Fraudulent Claims Relating to the Provision of Health Care Services

The government may prosecute persons who submit or cause the submission of false or fraudulent claims to the Medicare or Medicaid program. Examples of false or fraudulent claims include claims for items that were never provided or were not provided as claimed, and claims for services which a person knows are not medically necessary.

Submitting or causing false claims to be submitted to Medicare or Medicaid may subject the individual or entity to criminal prosecution, civil penalties including treble damages, and exclusion from participation in the Medicare and Medicaid programs. The OIG has uncovered the following types of fraudulent transactions related to the provision of health care services to residents of nursing facilities reimbursed by Medicare and Medicaid:

Claims for Services Not Rendered or Not Provided as Claimed

Common schemes entail falsifying bills and medical records to misrepresent the services, or extent of services, provided at nursing facilities. Some examples follow:

- One physician improperly billed $350,000 over a 2-year period for comprehensive physical examinations of residents without ever seeing a single resident. The physician went so far as to falsify medical records to indicate that nonexistent services were rendered.
- A psychotherapist working in nursing facilities manipulated Medicare billing codes to charge for 3 hours of therapy for each resident when, in fact, he spent only a few minutes with each resident. In a nursing facility, 3 hours of psychotherapy is highly unusual and often clinically inappropriate.
- An investigation of a speech specialist uncovered documentation showing that he overstated the time spent on each session claimed. Claims analysis showed that the speech specialist actually claimed to spend 20 hours with residents every day, far more time than possible. Further investigation revealed that some residents had never met the specialist, and some were dead at the time when the specialist claimed to have provided speech services to them.
- A company providing mobile X-ray services made visits to nursing facilities, and billed for taking two X-rays when only one was actually taken. The case also presented serious concerns about quality of care when the investigation revealed that company personnel were not certified to take X-rays.

Claims Falsified To Circumvent Coverage Limitations on Medical Specialties

Practitioners of medical specialties have been found to misrepresent the nature of services provided to Medicare and Medicaid beneficiaries because the Federally funded programs have stringent coverage limitations for some specialties, including podiatry, audiology, and optometry. For instance:

- The OIG has learned about podiatrists whose entire practices consisted of visits to nursing facilities. Non-covered routine care is provided, e.g., toenail clipping, but Medicare is billed for covered services which were not provided or needed. In one case, an investigator discovered suspicious billing for foot care when it was reported that a podiatrist was performing an excessive number of toenail removals, a service that is covered but not frequently or routinely needed. This podiatrist billed Medicare as much as $100,000 in 1 year for toenail removals. Investigators discovered one resident for whom bills were submitted claiming a total of 11 toenail removals.
- An optometrist claimed reimbursement for covered eye care consultations when he, in fact, performed routine exams and other non-covered services. His billing history indicated that he claimed to have performed as many as 25 consultations in one day at a nursing home. This is an unreasonably high number, given the nature of a Medicare-covered consultation.
- An audiologist made arrangements with a nursing facility and affiliated physicians to get orders for hearing exams that were not medically necessary. The audiologist used this access to residents exclusively to market hearing aids. In this case, the facility and physicians, in addition to the audiologist, could be held liable for false or fraudulent claims if they acted with knowledge of the claims for unnecessary service.

What To Look For in the Provision of Services to Nursing Facilities

The following situations may suggest fraudulent or abusive activities:

- ''Gang visits'' by one or more medical professionals where large numbers of residents are seen in a single day. The practitioner may be providing medically unnecessary services, or the level of service provided may not be of a sufficient duration or scope consistent with the service billed to Medicare or Medicaid.
- Frequent and recurring ''routine visits'' by the same medical professional. Seeing residents too often may indicate that the provider is billing for services that are not medically necessary.
- Unusually active presence in nursing facilities by health care practitioners who are given or request unlimited access to resident medical records. These individuals may be

collecting information used in the submission of false claims.

• Questionable documentation for medical necessity of professional services. Practitioners who are billing inappropriately may also enter, or fail to enter, important information on medical charts.

What To Do if You Have Information About Fraud and Abuse Against the Medicare and Medicaid Programs

If you have information about the types of activities described above, contact any of the field offices of the Office of Investigations of the Office of Inspector General, U.S. Department of Health and Human Services, at the following locations:

Field offices	States served	Telephone
Boston	MA, VT, NH, ME RI, CT	617–565–2660
New York	NY, NJ, PR, VI	212–264–1691
Philadelphia	PA, MD, DE, WV, VA	215–596–6796
Atlanta	GA, KY, NC, SC, FL, TN, AL, MS (No. District)	404–331–2131
Chicago	IL, MN, WI, MI, IN, OH, IA, MO	312–353–2740
Dallas	TX, NM, OK, AR, LA, MS (So. District), CO, UT, WY, MT, ND, SD, NE, KS.	214–767–8406
Los Angeles	AZ, NV (Clark Co.), So. CA	714–246–8302
San Francisco	No. CA, NV, AK, HI, OR, ID, WA	415–437–7960
Washington, DC	DC and Metropolitan areas of VA & MD	202–619–1900

To Report Suspected Fraud, Call or Write

1–800–HHS-TIPS, Department of Health and Human Services, Office of Inspector General, P.O. Box 23489, L'Enfant Plaza Station, Washington, D.C. 20026–3489.

Dated: May 29, 1996.

June Gibbs Brown,

Inspector General.

[FR Doc. 96–15269 Filed 6–14–96; 8:45 am]

BILLING CODE 4150–04–P

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: June 26, 1996.

Time: 1 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 8, 1996.

Time: 12 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 8, 1996.

Time: 12 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Jean G. Noronha, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 9, 1996.

Time: 1 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Jean G. Noronha, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 9, 1996.

Time: 12 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: June 10, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–15230 Filed 6–14–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Block Grant Allocation Processes

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) allocates funding to States and territories for the Community Mental Health Services (CMHS) Block Grant and the Substance Abuse Prevention and Treatment (SAPT) Block Grant. This notice describes the formulas which the law requires be used for distributing these funds and the information used in making the calculations.

This notice has five parts. Section I provides background information on the allocation process. Section II describes the legislation and the formulas applicable to the Community Mental Health Services Block Grant. Section III describes the legislation and the formulas applicable to the Substance Abuse Prevention and Treatment Block Grant. Section IV provides detailed information on the sources of data used in the calculations. Section V contains technical information important in making the actual calculations.

DATES: Written comments must be received by August 1, 1996. Any written comments received will be taken into

consideration and will become a matter of public record.

ADDRESSES: Written comments should be addressed to Nancy Pearce, Office of Applied Studies, Substance Abuse and Mental Health Services Administration, Room 16–105, 5600 Fishers Lane, Rockville, MD 20857, Fax (301) 443–9847.

FOR FURTHER INFORMATION CONTACT: Nancy Pearce, Office of Applied Studies, Substance Abuse and Mental Health Services Administration, Room 16–105, 5600 Fishers Lane, Rockville, MD 20857, Phone (301) 443–7978, Fax (301) 443–9847.

I. Background

The Omnibus Reconciliation Act of 1981 established a single Block Grant for supporting alcohol, drug abuse, and mental health services, the Alcohol, Drug Abuse and Mental Health Services (ADMS) Block Grant. On July 10, 1992, the ADAMHA Reorganization Act was signed into law, Public Law 102–321. This Act amended the Public Health Service Act and, among other things, established two separate Block Grants to replace the ADMS Block Grant. The Community Mental Health Services (CMHS) Block Grant supports community mental health services; the Substance Abuse Prevention and Treatment (SAPT) Block Grant supports services for the prevention and treatment of substance abuse. Public Law 102–321 also contains eligibility criteria for receipt of funds under the Grants and provides the formulas and methods for determining States and territorial allotments of funds under each type of block Grant.

Under the legislation, the Secretary of the U.S. Department of Health and Human Services (DHHS), acting through the Director of SAMHSA's Center for Mental Health Services and through the Center for Substance Abuse Treatment, determines the allotments for States and territories for both Block Grants and disburses federal funds to eligible States and territories.

In July, 1995, responsibility for calculating the amount of support each State and territory receives in a given fiscal year was assigned to the Office of Applied Studies in the Substance Abuse and Mental Health Services Administration (SAMSHA). The Center for Substance Abuse Treatment and the Center for Mental Health Services manage the grants.

SAMHSA is publishing this notice to inform the public about how block grant allocations are calculated and provide an opportunity for comment.

II. Legislative Requirements and Allocation Process for Community Mental Health Services (CMHS) Block Grant

A. Legislative Requirements

Sections 1911 through 1920 of the Public Health Service (PHS) Act establish the Community Mental Health Services (CMHS) Block Grant and rules that must be followed in making these grants. Section 1920(a) of the Act authorizes the appropriation of funds for the CMHS Block Grant; the size of the appropriation is determined each year by the Congress. Section 1920 of the Act also specifies that 5 percent of the amount appropriated in a given year shall be used by the Department of Health and Human Services (DHHS) to collect data on mental health services and patients and conduct evaluations of programs to prevent and treat mental health problems. The remaining 95 percent of any appropriation for the CMHS Block Grant must be allocated to the States and territories.

Section 1918 of the PHS Act provides formulas for making these allocations. Of the 95 percent of the appropriation available for distribution 98.5 percent must be given to the States and 1.5 percent must be distributed to the territories.

B. State Allocations

The amount of an allotment for an individual State is determined by three factors: the Population at Risk, the Cost of Services Index, and the Fiscal Capacity Index. The Population at Risk represents the relative risk of mental health problems in a State. The Cost of Services Index represents the relative costs of providing mental health services in a State. The Fiscal Capacity Index represents the relative ability of a State to pay for mental health services. The product of these three terms establishes the need for a given State.

Formulas for calculating Population at Risk and the Fiscal Capacity Index are specified in Sections 1918(a)(5) and (6) of the PHS Act. The Cost of Services Index formula is included by reference and derived from a report entitled *Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Populations and Cost of Service,* dated March 30, 1990, prepared by Health Economics Research.

The law requires the estimate of the Population at Risk and the Fiscal Capacity Index be revised each fiscal year. The Cost of Services Index is revised every third fiscal year. Section 1918(a)(8) of the PHS Act provides that the first determination of the Cost of Services Index would be made on October 1, 1992. The same factor remained in effect until FY 1995 when a new Index was developed. The Index will be recalculated for FY 1998. DHHS is also directed by the legislation to ''periodically make such refinements in the methodology * * *'' for the calculation of the Cost of Services Index as are consistent with the purpose of this adjustment of the allotments. (See Technical Note B, Section V.)

C. State Calculations for the Mental Health Block Grant

The allocation for each State is calculated using equations described below. For the purposes of explanation, the subscript ''I'' is used to denote an individual State or the District of Columbia. The symbol ''Σ''is used to denote the summation over the 50 States and the District of Columbia.

General Equation:

$$SALLOC_i = 0.985*0.95*AMT*(P_i*C_i*F^i)/(\Sigma(P_i*C_i*F_i)) \quad (1)$$

where:

$SALLOC_i$ = State specific allotment of the block grant.

AMT = appropriation for mental health and related services.

P_i = State specific Population at Risk (calculated using Equation 2).

C_i = State specific Cost of Services Index (calculated using Equation 3).

F_i = State specific Fiscal Capacity Index (calculated using Equation 8).

The coefficients 0.985 and 0.95 are specified in the legislation. The first coefficient (0.985) represents the proportion of the total allocable funds available for distribution to the States and the District of Columbia. The second coefficient (0.95) represents the proportion of the total appropriation available for allocation to all recipients—the States, the District of Columbia, and the territories.

Equation for the State Population at Risk:

$$P_i = 0.107*P18–24_i+0.166*P25–44_i+0.099*P45–64_i+0.082*P65UP_i \quad (2)$$

where:

$P18–24_i$ = State specific population aged 18 to 24.

$P25–44_i$ = State specific population aged 25 to 44.

$P45–64_i$ = State specific population aged 45 to 64.

$P65UP_i$ = State specific population aged 65 and older.

The coefficients 0.107, 0.166, 0.099, and 0.082 are specified in the legislation. The population of each State by age group is obtained from the Bureau of the Census, ''Resident Population of States, by Single Year of Age,'' using the most current data available as of October 1 of each year.

Equation for the Cost of Services Index:

C_i = 0.9 if $0.75*W_i+0.15*R_i+0.10*S_i < 0.9$ (3)
1.1 if $0.75*W_i+0.15*R_i+0.10*S_i > 1.1$ C_i = $0.75*W_i+0.15*R_i+0.10*S_i$ otherwise

where:
W_i = State specific wage subindex (calculated using Equation 4).
R_i = State specific rent subindex (calculated using Equation 5).
S_i = State specific supplies subindex.

The coefficients 0.75, 0.15, and 0.10 are specified in the report cited by the legislation, as is S_i, which is equal to 1 for all States and the District of Columbia. The boundary values of 0.9 and 1.1 are specified in the legislation.

Equation for State Specific Wage Subindex:

$W_i = AVGSTHW_i/AVGUSHW$ (4)

where:
$AVGSTHW_i$ = average State specific hourly manufacturing wage including overtime.
AVGUSHW = average U.S. hourly manufacturing wage including overtime.

The State and national wage data are obtained from the Bureau of Labor Statistics, Current Employment Statistics Survey, ''Employment, Hours and Earnings,'' using the most current data available as of October 1 of each year.

Equation for State Specific Rent Subindex:

$R_i = AVGSTRTi/AVGUSRT$ (5)

where:
$AVGSTRT_i$ = weighted average State specific rent (calculated using Equation 6).
AVGUSRT = weighted average U.S. rent (calculated using Equation 7).

Equation for Weighted Average State Specific Rent:

$AVGSTRTi = (\Sigma POP_{ij}*RENT_{ij})/(\Sigma POP_{ij})$ (6)

where:
POP_{ij} = population of jth subarea of the State.
$RENT_{ij}$ = fair market rent of 4-bedroom dwelling in jth subarea of the State.

Each State is subdivided into ''J'' mutually exclusive subareas that cover the State. If the State is not a New England State, population source data $PSOURCE_{ij}$ (obtained at the State, county, subdivision and place levels from the Bureau of the Census, ''Census of Population and Housing''), and rent source data $RTSOURCE_{ij}$ (obtained at the State, county, and SMSA levels from the Department of Housing and Urban Development, ''Fair Market Rents...'') are used to calculate POP_{ij} and $RENT_{ij}$ on a county-level basis (after addition of population of ''independent cities'' for HI, MD, MO, MT, and VA). If State I is a New England State, SMSA codes (obtained from the Office of Management and Budget, ''Revised Statistical Definitions of Metropolitan Areas (MAs) and Guidance on Uses of MA Definitions'') are matched to county subdivisions; the non-SMSA balances of county populations (using data obtained from the Bureau of the Census, ''Non-metropolitan New England County Names and Codes'') are determined; POP_{ij} and $RENT_{ij}$ are calculated on a township-level basis by assigning groups of FIPS codes (obtained from the Department of Commerce, ''FIPS Publications'') to SMSAs; and POP_{ij} and $RENT_{ij}$ are matched and merged.

Equation for the Weighted Average of the U.S. Rent:

$AVGUSRT = (\Sigma\Sigma POP_{ij}*RENT_{ij})/(\Sigma\Sigma POP_{ij})$ (7)

Equation for State Specific Fiscal Capacity Index:

F_i = maximum of 0.4 and $1-(0.35*((AVGTTR_i/C_i)/(\Sigma AVGTTR_i/C_i))/(P_i/\Sigma P_i))$, if specific State variable is a State, otherwise; $1-(0.35*((AVGTPI_i/C_i)/(\Sigma AVGTPI_i/C_i))/(P_i/\Sigma P_i))$ if the State variable is DC (8)

where:
$AVGTTR_i$ = State specific 3-year average Total Taxable Resources (calculated using Equation 9).
$AVGTPI_i$ = State specific 3-year average Total Personal Income (calculated using Equation 10).

The boundary value of 0.4, constant of 1, and coefficient of 0.35 are specified in the legislation.

Equation for State Specific 3-Year Average Total Taxable Resources:

$AVGTTR_i = (TTR1_i+TTR2_i+TTR3_i)/3$ (9)

where:
$TTR1_i$, $TTR2_i$ and $TTR3_i$ = State specific Total Taxable Resources, 3 most recent years.

The total taxable resources by State data are obtained from the Department of the Treasury, ''Total Taxable Resources by State, and are updated annually for all three years used in the calculations.

Equation for State Specific 3-Year Average Total Personal Income:

$AVGTPI_i = (TPI1_i+TPI2_i+TPI3_i)/3$ (10)

where:
$TPI1_i$, $TPI2_i$ and $TPI3_i$ = State specific Total Personal Income, 3 most recent years.
The total personal income by State data are obtained from the Department of Commerce, Survey of Current Business, and are updated annually for all three years used in the calculations.

D. Territory Allocations

The amount of an allotment for an individual territory is determined by multiplying the appropriation amount for allotment to all territories by the ratio of civilian population for an individual territory to the civilian population of all territories. (See Technical Note C, Section V.) Section 1918 of the PHS Act states that no territory shall receive less than a minimum allotment of $50,000 each fiscal year.

E. Territory Calculations for Mental Health Block Grant

The allocation for each territory is calculated using the equation described below. For the purposes of explanation, the subscript ''I'' is used to denote an individual territory, and the symbol ''Σ'' is used to denote the summation over all territories.

$TALLOC_i$=maximum of $50,000 and $0.015*0.95*AMT*PCCIVIL_i/\Sigma PCCIVIL_i$ (11)

where:
$PCCIVIL_i$=Civilian population per most recent decennial census for Territory I.

The coefficients 0.015 and 0.95 are specified in the legislation. They represent the proportion (0.015) of the total allocable funds to be distributed among the territories and the proportion (0.95) of the total appropriation to be allocated among the States, DC and the territories. The appropriation amount is established by Congress. The civilian population data is obtained from the Bureau of the Census, ''Estimates of Resident Population of States, by Age.'' If the Secretary determines that recent data on the civilian population of a territory are not available for a fiscal year, the law authorizes DHHS to estimate the population for the territory by modifying the most recent data to reflect the average extent of change occurring during the period in the population of all territories for which recent data do exist. (See Technical Note C, Section V.) The boundary of $50,000 is specified in the legislation.

III. Legislative Requirements and Allocation Process for Substance Abuse Prevention and Treatment (SAPT) Block Grant

A. Legislative Requirements

Sections 1921 through 1935 of the Public Health Service (PHS) Act establish the SAPT Block Grant and the rules that must be followed in making these grants. Section 1935(a) of the Act authorizes the appropriation of funds for the substance abuse block grant. The size of the appropriation is determined each year by the Congress. Section 1935(b) of the Act requires that 5 percent of the appropriated amount in a given year shall be used by DHHS for data collection to determine the incidence and prevalence of substance abuse and for technical assistance and program evaluations relevant to substance abuse treatment and prevention. The remaining 95 percent of the appropriation must be allocated among the States and territories.

Section 1933 of the PHS Act provides a formula for this allocation. The law

specifies that 98.5 percent of the total allocation available for distribution must be given to the States. The remaining 1.5 percent of the total must be distributed to the territories.

The law also provides for a direct federal allotment for Indian tribes or tribal organizations that meet certain requirements. For any tribe eligible to receive a direct allotment (See Technical Note E, Section V.), the tribe's share of the relevant State's share is the ratio of the tribe's FY 1991 allotment to that portion of the State allotment actually spent on the authorized activities.

B. State Allocations

The amount of an allotment for a specific State is determined by three factors: the Population at Risk, the Cost of Services Index, and the Fiscal Capacity Index. The Population at Risk represents the relative risk of substance abuse problems in a State. The Cost of Services Index represents the relative costs of providing substance abuse prevention and treatment services in a State. The Fiscal Capacity Index represents the relative ability of the State to pay for substance abuse related services. The product of these three terms establishes the need for a given State.

Formulas for calculating Population at Risk and the Fiscal Capacity Index are specified in legislation. The Cost-of-Services Index formula is not contained in the legislation, but is defined as a factor ''determined according to the methodology presented in the report entitled *Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Populations and Cost of Service,*'' dated March 30, 1990, prepared by Health Economics Research.

The law requires the estimates of the Population at Risk and the Fiscal Capacity Index be revised each fiscal year. The Cost of Services Index is revised every third fiscal year. Section 1918(a)(8) of the PHS Act provides that the first determination of the Cost of Services Index be made on October 1, 1992. The same factor remained in effect until FY 1995 when a new Index was developed. The Index will be recalculated for FY 1998. DHHS is also directed by the legislation to ''* * * periodically make such refinements in the methodology * * *'' for the calculation of the Cost of Services Index as are consistent with the purpose of this adjustment of the allotments. (See Technical Note B, Section V.)

C. State Calculations for the Substance Abuse Block Grant

The allocation for each State is calculated using equations described below. For the purposes of explanation, the subscript ''I'' is used to denote an individual State or the District of Columbia, and the symbol ''Σ'' is used to denote the summation over the 50 States and the District of Columbia.

General Equation:

$$SALLOC_i=0.985*0.95*AMT*(P_i*C_i*F_i)/(\Sigma(P_i*C_i*F_i)) \quad (12)$$

where:

$SALLOC_i$=State specific allotment of the block grant.

AMT=appropriation for substance abuse and related services.

P_i=State specific Population at Risk Index (calculated using Equation 13).

C_i=State specific Cost of Services Index (calculated using Equation 15).

F_i=State specific Fiscal Capacity Index (calculated using Equation 20).

The coefficients 0.985 and 0.95 are specified in the law. The first coefficient (0.985) represents the proportion of the total allocable funds available for distribution to the States and the District of Columbia. The second coefficient (0.95) represents the proportion of the total appropriation available for allocation to all recipients—the States, the District of Columbia, and the territories.

Equation for the State Population at Risk:

$$P_i=0.5*(P18–24_i+UP18–24_i)/(\Sigma(P18–24_i+UP18–24_i))+0.5*(P25–64_i/\Sigma P25–64_i) \quad (13)$$

where:

$P18–24_i$=State specific population aged 18 to 24.

$UP18–24_i$=State specific urban population aged 18 to 24 (calculated using Equation 14).

$P25–64_i$=State specific population aged 25 to 64.

The coefficients 0.5 are specified in the legislation. The State population by age group is obtained from the Bureau of the Census, ''Resident Population of States, by Single Year of Age,'' using the most current data available as of October 1 of each year.

Equation for the State Specific Urban Population:

$$UP18–24_i=P18–24_i*UPC18–24_i/PC18–24_i \quad (14)$$

where:

$UPC18–24_i$=State specific urban population aged 18 to 24 (per most recent decennial census).

$PC18–24_i$=State specific population aged 18 to 24 (per most recent decennial census).

Both sets of decennial census-based population data are obtained from the Bureau of the Census, Census of Population and Housing, 1990: Summary Tape File 1C. (See Technical Note D, Section V.)

Equation for the Cost of Services Index:

$$C_i=0.9 \text{ if } 0.75*W_i+0.15*R_i+0.10*S_i<0.9 \quad (15)$$

$$1.1 \text{ if } 0.75*W_i+0.15*R_i+0.10*S_i>1.1$$

$$C_i=0.75*W_i+0.15*R_i+0.10*S_i \text{ otherwise.}$$

where:

W_i=State specific wage subindex (calculated using Equation 16).

R_i=State specific rent subindex (calculated using Equation 17).

S_i=State specific supplies subindex.

The coefficients 0.75, 0.15, and 0.10 are specified in the article cited by the legislation, as is S_i, which is equal to 1 for all States and the District of Columbia. The boundary values of 0.9 and 1.1 are specified in the legislation.

Equation for State Specific Wage Subindex:

$$W_i=AVGSTHW_i/AVGUSHW \quad (16)$$

where:

$AVGSTHW_i$=average State specific hourly manufacturing wage including overtime.

AVGUSHW=average U.S. hourly manufacturing wage including overtime.

The State and national wage data are obtained from the Bureau of Labor Statistics, Current Employment Statistics Survey, ''Employment, Hours and Earnings,'' using the most current data available as of October 1 of each year.

Equation for Weighted Average State Specific Rent Subindex:

$$R_i=AVGSTRT_i/AVGUSRT \quad (17)$$

where:

$AVGSTRT_i$=weighted average State specific rent (calculated using Equation 18).

AVGUSRT=weighted average U.S. rent (calculated using Equation 19).

Equation for Weighted Average State Specific Rent:

$$AVGSTRT_i=(\Sigma POP_{ij}*RENT_{ij})/(\Sigma POP_{ij}) \quad (18)$$

where:

POP_{ij}=population of jth subarea of State I.

$RENT_{ij}$=fair market rent of 4-bedroom dwelling in jth subarea of State I.

Each State is subdivided into ''J'' mutually exclusive subareas that cover the State. If State I is not a New England State, population source data $PSOURCE_{ij}$ (obtained at the State, county, subdivision and place levels from the Bureau of the Census, ''Census of Population and Housing''), and rent source data $RTSOURCE_{ij}$ (obtained at the State, county, and SMSA levels from the Department of Housing and Urban Development, ''Fair Market Rents * * *'') are used to calculate POP_{ij} and $RENT_{ij}$ on a county-level basis (after addition of population of ''independent cities'' for HI, MD, MO, MT, and VA). If State I is a New England State, SMSA codes (obtained from the Office of Management and Budget, ''Revised Statistical Definitions of Metropolitan

Areas (MAs) and Guidance on Uses of MA Definitions'') are matched to county subdivisions; the non-SMSA balances of county populations (using data obtained from the Bureau of the Census, ''Non-metropolitan New England County Names and Codes'') are determined; POP_{ij} and $RENT_{ij}$ are calculated on a township-level basis by assigning groups of FIPS codes (obtained from the Department of Commerce, ''FIPS Publications'') to SMSAs; and POP_{ij} and $RENT_{ij}$ are matched and merged.

Equation for Weighted Average of the U.S. Rent:

$$AVGUSRT=(\Sigma\Sigma POP_{ij}*RENT_{ij})/(\Sigma\Sigma POP_{ij}) \quad (19)$$

Equation for State Specific Fiscal Capacity Index:

$$Fi=\text{maximum of } 0.4 \text{ and } 1-(0.35*((AVGTTR_i/C_i)/(\Sigma AVGTTR_i/C_i))/(P_i/\Sigma P_i)), \text{ if specific State is a State, otherwise } 1-(0.35*((AVGTPI_i/C_i)/(\Sigma AVGTPI_i/C_i))/(P_i/\Sigma P_i)) \text{ if the State variable is DC} \quad (20)$$

where:

$AVGTTR_i$=State specific 3-year average Total Taxable Resources (calculated using Equation 21).

$AVGTPI_i$=State specific 3-year average Total Personal Income (calculated using Equation 22).

The boundary value of 0.4, constant of 1, and coefficient of 0.35 are specified in the legislation.

Equation for State Specific 3-Year Average Total Taxable Resources:

$$AVGTTR_i=(TTR1_i+TTR2_i+TTR3_i)/3 \quad (21)$$

where:

$TTR1_i$, $TTR2_i$ and $TTR3_i$=State specific Total Taxable Resources, 3 most recent years.

The total taxable resources by State data are obtained from the Department of the Treasury, ''Total Taxable Resource by State,'' and are updated annually for all three years used in the calculations.

Equation for State Specific 3-Year Average Total Personal Income:

$$AVGTPI_i=(TPI1_i+TPI2_i+TPI3_i)/3 \quad (22)$$

where:

$TPI1_i$, $TPI2_i$ and $TPI3_i$=State specific Total Personal Income, 3 most recent years.

The total personal income by State data are obtained from the Department of Commerce, ''Survey of Current Business,'' and are updated annually for all three years used in the calculations.

D. Territory Allocations

The amount of an allotment for an individual territory is determined by multiplying the appropriation amount for allotment to all territories by the ratio of civilian population for an individual territory to the civilian population of all territories. (See Technical Note C, Section V.) Section 1933 of the PHS Act specifies that no territory shall receive less than a minimum allotment of $50,000 each fiscal year.

E. Territory Calculations for Substance Abuse Block Grant

The allocation for each territory is calculated using the equation described below. For the purposes of explanation, the subscript ''I'' is used to denote an individual territory, and the symbol ''**Σ**'' is used to denote the summation over all territories.

$$TALLOC_i=\text{maximum of } \$50{,}000 \text{ and } 0.015*0.95*AMT*PCCIVIL_i/\mathbf{\Sigma}PCCIVIL_i \quad (23)$$

where:

$PCCIVIL_i$=Civilian population per most recent decennial census for Territory I.

The coefficients 0.015 and 0.95 are specified in the legislation. The first coefficient (0.015) represents the proportion of the total allocable funds to be distributed among the territories. The second coefficient (0.95) represent the proportion of the total appropriation to be allocated among the States, DC and the territories. The Congress establishes the level of the appropriation each fiscal year. The civilian population data is obtained from the Bureau of the Census, ''Estimates of Resident Population of States, by Age.'' If the Secretary determines that recent data on the civilian population of a territory are not available for a fiscal year, the law authorizes DHHS to estimate the population for the territory by modifying the most recent data to reflect the average extent of change occurring during the period in the population of all territories for which recent data do exist. (See Technical Note C, Section V.) The boundary of $50,000 is specified in the legislation.

F. Allocations to Indian Tribes and Tribal Organizations

The Red Lake Band of the Chippewa Indians in Minnesota receives a direct allocation, as provided under Section 1933(d) of the PHS Act. (See Technical Note E, Section V.) Therefore, the substance abuse block grant allocation for the State of Minnesota is apportioned between the Red Lake Band of Chippewas and the remainder of the State as provided in the law and described in the following equations.

Equation for Allotment of Funds to the Red Lake Indians:

$$RLIALLOC=SALLOC_{MN}*0.0240535 \quad (24)$$

where:

RLIALLOC=allotment for Red Lake Indians.

$SALLOC_{MN}$=Minnesota State allotment (calculated using Equation 12).

The coefficient 0.0240535 reflects FY 1991 funding, as specified by Section 1933(d) of the PHS Act.

Equation for the Allotment for the Remainder of Minnesota:

$$MNRALLOC=SALLOC_{MN}-RLIALLOC \quad (25)$$

where:

MNRALLOC=allotment for the remainder of Minnesota.

IV. Data Elements and Sources

The following table presents a list of data elements used in the allocation formulas. It identifies the agency that develops the data, the frequency with which that source agency updates the data, and includes some technical notes about the data as they are used in the allocation formulas. The table also shows the years of the data used in the FY 1996 allocations.

Data element and update frequency by source agency	Data source	Notes
Total Taxable Resources (TTR), by State—Annual.	U.S. Department of the Treasury, Office of Economic Policy. Unpublished data, dated August 24, 1994.	1. Calculations are made specifically for these block grants, and provided to SAMHSA on diskette. 2. Annual estimates include revision of estimates for the two prior years. Therefore, all three years of data are replaced each year. 3. The data used in the calculations consist of the source data as received truncated to three significant decimal places 4. FY 1996 allocations use 3-year average of data for 1991, 1992, 1993. 5. Used in Fiscal Capacity Index.

Data element and update frequency by source agency	Data source	Notes
Total Personal Income (TPI), by State—Annual.	U.S. Department of Commerce, Bureau of Economic Analysis. Survey of Current Business: Press release BEA 94–36 dated August 23, 1994, Table 3—Total Personal Income, by State and Region, 1989–93.	1. Final estimates are typically published in August, including revision of estimates for the two prior years. Therefore, all three years of data are replaced each year. 2. FY 1996 allocations use 3-year average of data for 1991, 1992, 1993. 3. Used in Fiscal Capacity Index.
Estimates of Resident Population of States, by Age—Annual.	U.S. Department of Commerce, Bureau of the Census. Unpublished estimates by the Population Division, Population Distribution Branch.	1. The only Bureau of the Census release of population estimates by single year of age (needed to create age groupings for population at risk in each block grant) is in early March for July 1 of the previous year. Data for July 1, 1993 were only released on diskette by the Population Distribution Branch, Population Division, 301–457–2385. Cost is $20. Data for subsequent years are available on the Internet; estimates on the Internet are those for the most recent year available. 2. FY 1996 allocations use estimates for July 1, 1993. 3. Used to determine Population at Risk.
Population age 18–24 and 18–24 living in urbanized areas, by State—Decennial.	U.S. Department of Commerce, Bureau of the Census. Census of Population and Housing, 1990: Summary Tape File 1C.	1. Urbanized population is used only in the substance abuse block grant. 2. The Bureau of the Census does not make intercensal estimates of the urbanized population. Therefore, data from the 1990 census are used until data from the 2000 census are available. 3. Used to determine Population at Risk.
Population by county—Decennial.	U.S. Department of Commerce, Bureau of the Census. Census of Population and Housing, 1990: Summary Tape File 1C.	1. County population is used in conjunction with Fair Market Rent in the Cost of Services Index. 2. In order to have population data for the specific geographic area configurations used in the FMR files, it is necessary to use data available only from the decennial census. 1990 data were used for FY 1996 allocations. 3. Used in Cost of Services Index
Civilian population of the U.S. territories—Varies.	U.S. Department of Commerce, Bureau of the Census, Population Division. 1990 data released in press releases, as follows: American Samoa, CB 91–242 (7/24/91); Guam, CB 91–276 (9/13/91); Northern Mariana Islands, CB 91–243 (7/24/91); Palau, CB 91–244 (7/24/91); Puerto Rico CB 91–275 (9/13/91); Virgin Islands CB 91–263 (8/23/91).	1. Each press release also included data for 1980, except for Puerto Rico. 1980 data for Puerto Rico are from report PC 80–1–A53, Table 2, page 53–10 (12/84). 2. The Bureau of the Census no longer collects data for the Federated States of Micronesia and the Republic of the Marshall Islands. See Technical Note C in Section V. 3. Inter-censal estimates are made only for Puerto Rico.
Average hourly manufacturing wage, by State—Annual.	U.S. Department of Labor, Bureau of Labor Statistics, Current Employment Statistics Survey, ''Employment and Earnings,'' May 1994. Table 2, p. 162—(Annualized) Average Hourly Earnings, by State, 1993.	1. Data include overtime. 2. FY 1996 allocations use 1993 data. 3. Used in Cost of Services Index.
U.S. average manufacturing wage—Annual.	U.S. Department of Labor, Bureau of Labor Statistics. Current Employment Statistics Survey, ''Employment and Earnings,'' May 1994. Table B–2, p. 52—National (Annualized) Average Hourly Earnings for 1993.	1. Data include overtime. 2. FY 1996 allocation uses data for 1993. 3. Used in Cost of Services Index.
Four Bedroom Fair Market Rent (FMR)—Annual.	''Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs; Moderate Rehabilitation Program and Rental Voucher Program (24 CFR Part 888) issued by the Department of Housing and Urban Development, Office of the Secretary. FEDERAL REGISTER, September 28, 1994, Part IV; Vol 59, No. 187, pp. 49494–49553..	1. HUD is required by law to establish FMRs annually and to publish proposed and final FMR's in the FEDERAL REGISTER.

Data element and update frequency by source agency	Data source	Notes
Metropolitan Area Definitions for FMR—Annual, at a minimum.	''Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs; Moderate Rehabilitation Program and Rental Voucher Program (24 CFR Part 888) issued by the Department of Housing and Urban Development, Office of the Secretary. FEDERAL REGISTER, April 6, 1994, Part XII, Vol 59, No. 66, pp. 16408–16484.	2. The typical cycle is a Notice of Proposed Rule Making published in late April or early May, with the Final Rule published in the last two weeks of September for an October 1 effective date. 3. Used in Cost of Services Index. 1. The FEDERAL REGISTER notice fully documents how ''housing market areas'' are defined and how Metropolitan Area definitions are used. For non-metropolitan areas, counties are used. In New England, town definitions are used. 2. Used in Cost of Services Index

V. Technical Notes

A. Establishment of Cutoff Date for ''Most Recent Data''

The legislation for both block grants refers to use of the most recent available data in calculating the allotments for each State and territory. Section 1918(a)(5)(B) states that ''With respect to data on population that is necessary for purposes of making a determination under subparagraph (A), the Secretary shall use the most recent data that is available from the Secretary of Commerce pursuant to the decennial census and pursuant to reasonable estimates by such Secretary of changes occurring in the data in the ensuing period.'' Section 1918(a)(6)(B)(I) requires use of ''the most recent 3-year arithmetic mean of the total taxable resources of the State, as determined by the Secretary of the Treasury.'' Section 1918(a)(6)(D)(ii) requires ''the most recent 3-year arithmetic mean of total personal income in such District [the District of Columbia], as determined by the Secretary of Commerce.''

When the legislation for the two block grants was first implemented, SAMHSA staff tried to update population and other data whenever new estimates of the block grant allotments were required. This caused considerable confusion because projections of specific State allotments under the two Block Grant programs were changing constantly. Specific State allotment projections for various appropriation levels must be provided to Congress early in the budget consideration process; and changing estimates complicate the decision making process.

Given the time constraints and the need for consistent estimates for the budget process, SAMHSA now bases all calculations on the latest data available by the beginning of each fiscal year (October 1). For example, allotments for FY 1997, determined during FY 1996, employ those data available as of October 1, 1995. This approach was adopted for all allotment determinations beginning with those for FY 1996. Congress was notified of the change in approach in February, 1995.

B. Wage Data Set for Cost of Services Index

The Cost of Services Index is discussed on page 13 of the report cited in Section 1918(a)(8)(B) of the Act. According to that report ''* * * the ideal cost-of-service measure would be data on the cost of providing a standard set of substance abuse and mental health services in each State.'' The report also notes such data are not available. The report reviews several potential sources of wage data, and proposes the use of non-manufacturing wage data from the decennial Census of Population and Housing. At the time of the 1990 report, the only census information available was 1980. Those data referred to earnings in 1979. A copy of the unpublished report is available on request from the 'Information Contact' listed at the beginning of this notice.

When SAMHSA began to assemble information to make the first block grant allotment computations, the non-manufacturing wages data from the 1990 census were not yet available and the 1979 data were out-of-date. After consultation with the Comptroller General, as required by the PHS Act, SAMSHA decided to use manufacturing wage data collected annually by the Bureau of Labor Statistics (BLS) through the Current Employment Statistics Program for developing estimates for the Cost of Services Index.

There are several advantages to using manufacturing wage data. (1) Timeliness. The BLS data are collected continuously on a monthly basis. In contrast, the most recent non-manufacturing data were collected in 1989 during the decennial census and are not subject to post-census updates in the years between censuses. (2) Reliability. Hours and earnings manufacturing data are based on the actual records of gross payrolls and corresponding paid hours of employment maintained by economic establishments for a variety of tax and accounting purposes. Non-manufacturing decennial census data are based on individual self-report. (3) Scope. Manufacturing wage data are collected on a monthly basis from a large sample of manufacturing establishments from which valid estimates of wages at the State level can be made. According to the BLS ''Manual on Series Available and Estimating Methods, Current Employment Statistics Program, March 1994,'' published in March 1995, the sample contains over 61,000 manufacturing establishments. Non-manufacturing data are collected from a 1-in-6 sample of households in the decennial census, only a portion of which report non-manufacturing wage data. (4) Suitability. Because the sampling point for the BLS Current Employment Statistics Program is the economic establishment, i.e., the point at which economic activity is generated, the resulting manufacturing wage data are better suited to providing information on the geographic distribution of employment and its impact on the demand for labor as measured by wage rates.

BLS collects its data from a survey conducted in cooperation with State Employment Security Agencies, which obtain the data from a sample of employers who are able to report the actual weekly wage data from their records of payments. By contrast, the household survey method used in the decennial census to obtain non-manufacturing wage data places primary emphasis on the employment status of individuals and other demographic

characteristics of the labor force. To obtain its estimates, Census divides the total annual income due to wages reported by households by 52 to derive a weekly figure. The data are then divided by the reported number of hours worked during the census week to derive a wage value. The resulting estimate is not precise. Therefore, the BLS manufacturing wage data are used in computing the allotments under the block grants. The appropriate Congressional committees were informed of this approach.

C. Population Estimates for Territories

For both the mental health and the substance abuse block grants the law provides that the Secretary shall estimate the civilian population of a territory current if data on the civilian population of the territory does not exist. These estimates are developed by modifying the population estimates for the territories for which recent data do not exist by the average increase or decrease in the population of all territories for which there are recent data.

Data are available from the 1990 census for American Samoa, Guam, the Northern Mariana Islands, Palau, Puerto Rico and the Virgin Islands. For the Federated States of Micronesia and the Republic of the Marshall Islands the latest data on population are from 1980. The Census Bureau no longer has responsibility for collecting data from these two territories, which signed Compacts of Free Association with the United States in 1988. The 1990 population estimates for the Federated States of Micronesia and the Republic of the Marshall Islands were derived by applying the average percent change between 1980 and 1990 for the other territories to their 1980 populations. This determination was made as follows:

TERRITORY POPULATIONS FOR WHICH THE BUREAU OF THE CENSUS—COLLECTED DATA IN 1980 AND 1990 AND PERCENT CHANGE 1980–1990

Territory	1980 Population	1990 Population	Percent change
American Samoa	32,297	46,773	+44.8
Guam	105,979	133,152	+25.6
Northern Mariana Islands	16,780	43,345	+158.3
Palau	12,116	15,122	+24.8
Puerto Rico	3,196,520	3,522,037	+10.2
Virgin Islands	96,569	101,809	+5.4
Average Increase	.....	.....	+44.9

1990 ESTIMATED POPULATIONS OF TERRITORIES FOR WHICH THE BUREAU OF THE CENSUS NO LONGER COLLECTS DATA

Territory	1980 Population as enumerated	1990 Estimated population (using 44.9 percent average territory population increase from above table)
Federated States of Micronesia	73,087	105,903
Republic of the Marshall Islands	30,873	44,735

The Bureau of the Census has made post-1990 decennial census estimates only for Puerto Rico. With post-1990 estimates available only for Puerto Rico, the only way to adjust the population estimates for the other territories is to assume that the percentage change in the population of each is similar to the percentage change in Puerto Rico. Since the distribution of funding for each territory is proportional to its contribution to the total population of the territories, any adjustment based only on the change for Puerto Rico would not alter the allocation of funds. Therefore, the territory population data and estimates for 1990 continue to be used for allocation purposes.

D. Population in Urbanized Areas for Substance Abuse Block Grant

The formula for the SAPT block grant adjusts for the population at risk for substance abuse using the State population between 18–24 years of age living in urbanized areas and the total U.S. population between 18–24 years living in urbanized areas. The Bureau of the Census does not make inter-censal estimates of the population living in urbanized areas. Therefore, the estimates of this population group are derived from the 1990 census.

E. Indian Tribes Receiving Direct Allotments Under the Substance Abuse Block Grant

Section 1933(d) of the Act provides for separate grants for substance abuse prevention and treatment to Indian tribes or tribal organizations. Several categorical grant programs for which a number of tribes had been direct recipients were folded into the former ADMS block grant when it was established in 1981. The Red Lake Band of the Chippewa Indians in Minnesota was the only tribe or tribal organization still receiving ADMS block grant funds at the time the SAPT Block Grant was established in 1992 and is therefore the only Indian tribe currently eligible for direct receipt of funds. This group continues to receive a direct allotment under the SAPT Block Grant. The funding level for the Red Lake Indians, as determined by SAMSHA based on FY 1991 funding levels, is 0.0240535 of the total amount of the Minnesota annual allocation.

Dated: June 7, 1996.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 96–15010 Filed 6–14–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3917–N–94]

Office of the Assistant Secretary for Housing-Federal Housing Commissioner; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 16, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451–7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Kerry J. Mulholland, Telephone number (202) 708–0614, Ext. 2649 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Calculation of Tenant Rents at Title VI Preservation Projects—HUD–90012

OMB Control Number, if applicable: 2502–0489

Description of the need for the information and proposed use: The Department requests extension of information collection required to implement Title II of the Housing and Community Development Act of 1987 and Title VI of the National Affordable Housing Act of 1990 (The Statutes). The Statutes instruct the Department on how to implement rents resulting from a successful Plan of Action to maintain a project's affordability. This rent structure was implemented by regulation on September 21, 1990, and April 8, 1992 at CFR Part 248. The Title VI project rent structure portion was modified by appropriations action found in Public Law 103–327, dated September 18, 1994, which provided for incorporating provisions that necessitate inclusion of a tenant payment standard for Lower Income Residents receiving Section 8 assistance during FY 1995.

The interim rule includes one case of information collection. The form will be used by owners to assist in calculating annual rent payments made by each tenant residing in the property. The FY 1995 Appropriations changes to Lower Income Tenant rent payments remain in effect as along as the Department funds under FY 1995 conditions. Owners are currently required to recertify tenants annually using Form HUD–50059. Form HUD–90012 amends the current recertification process to meet program guidelines. Information on the form will also be used by HUD field offices to monitor the owner's accurate calculation of these rent payments.

Agency form number, if applicable: HUD–90012

Members of affected public: Approximately 161 owners of LIHPRHA projects and approximately 54 ELIPHA projects located throughout the Continental United States.

An estimation of the total number of hours needed to prepare the information collection is 1,862, the number of respondents is 161, frequency of response is 1, and the hours of response is 8.66.

Status of the proposed information collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 10, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–15226 Filed 6–14–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3917–N–93]

Government National Mortgage Association; Notice of Proposed Information Collection for Public Comment

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 16, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya K. Suarez, Government National Mortgage Association, Office of Program, Policy, Procedure, and Risk Management, Department of Housing & Urban Development, 451–7th Street, SW, Room *6222*, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya K. Suarez, on (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Approval FHA Lender and/or Ginnie Mae Mortgage-Backed Securities Issuer.

OMB Control Number: 2503–0012.

Description of the need for the information and proposed use: This form is used by mortgage lenders who wish to apply to become a FHA-approved lender or loan correspondent under Title I and/or Title II program and/or an approved issuer with Ginnie Mae. The form requires lenders to provide specific information about their mortgage lending operations, business background and experience. It sets out the information FHA/Ginnie Mae requires to determine if the applicant meets FHA/Ginnie Mae eligibility requirements.

Agency form numbers: HUD 11702/92001.

Members of affected public: Business or other for-profit and the Federal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Respondents: FHA—1800; Ginnie Mae—50.

Frequency of response: one time application.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
FHA	1800		1		.50		900
Ginnie Mae	50		1		.75		38

Total Estimated Burden Hours: 938.

Status: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 30, 1996.

Thomas R. Weakland,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 96–15229 Filed 6–14–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3917–N–95]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 17, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB my be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 4, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Mortgage Record Change.

Office: Housing.

OMB Approval Number: 2502–0422.

Description of the Need for the Information and Its Proposed Use: Mortgagees who participate in the HUD/FHA insurance programs must report mortgage portfolio activity to the Department regarding changes of investor and/or service.

Form Number: HUD–92080.

Respondents: Not-For-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–92080	9,062		245.64		.1		222,600

Total Estimated Burden Hours: 222,600.

Status: Reinstatement, without changes.

Contact: George Russell/Donald L. Kline, HUD, (202) 708–2022; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 4, 1996.

[FR Doc. 96–15527 Filed 6–14–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4927–N–96]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 17, 1996.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 4, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Family Self-Sufficiency Program.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0178.

Description of the Need for the Information and its Proposed Use: The information collections are needed to promote the development of local strategies that coordinate the use of public housing assistance and housing assistance under Section 8 Rental Certificate and Voucher Programs with public/private resources. The information will enable eligible families to achieve economic independence and self-sufficiency.

Form Number: HUD–52650 and HUD–52652.

Respondents: Individuals or Households and State, Local, or Tribal Government.

Frequency of Submission: On Occasion, Annually, and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Action Plan	600		1		40		24,000
HUD–52650	600		50		1		30,000
HUD–52652	600		10		1		6,000
Reporting	600		1		40		24,000
Recordkeeping	600		1		.25		150

Total Estimated Burden Hours: 84,150.

Status: Reinstatement, without changes.

Contact: Cedric A. Brown, HUD, (202) 708–3887; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 4, 1996.

[FR Doc. 96–15228 Filed 6–14–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment I to the Tribal-State Compact for Regulation of Class III Gaming Between The Klamath Tribes and the State of Oregon, which was executed on April 4, 1996.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: June 7, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–15295 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AZ–910–0777–61–241A]

Call for Nominations of Elected Official to the Arizona Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit nominations from the public for the elected official vacancy on the Bureau of Land Management (BLM) Arizona Resource Advisory Council currently assisting BLM. Established and authorized in 1995 by the Secretary of the Interior, the council provides advice and recommendations to BLM on management of the public lands in Arizona, and those portions of California and Utah under the jurisdiction of Arizona BLM. Public notice begins with the publication date of this notice. Public nominations will be considered for 45 days. The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, Resource Advisory Council members appointed to the council must be balanced and representative of the various interests concerned with the management of the public lands. These include three categories:

- Category 1—holders of federal grazing permits, representatives of energy and mining development, timber industry, off-road vehicle use and developed recreation;
- Category 2—representatives of environmental and resource conservation organizations, archaeological and historic interests, and wild horse and burro groups;
- Category 3—representatives of State and local government, Native American tribes, academicians involved in natural sciences, and the public-at-large.

The vacancy currently open on the Arizona Resource Advisory Council is for the elected official position in Category 3 which includes representatives of State and local government positions.

Individuals may nominate themselves or others. Nominees must be an elected official of general purpose government and a resident of the States within the geographic jurisdiction of the Council. Nominees will be evaluated based on their education, training, and experience of the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

The nomination period will also be announced through press releases issued by the BLM Arizona offices. Nomination forms for this Resource Advisory position are available from all BLM offices. Nominations should be sent to Joanie Losacco, Deputy of External Affairs, Arizona State Office, P.O. Box 16563, Phoenix, AZ 85011–6563.

DATES: All nominations should be received by Joanie Losacco, Deputy of External Affairs, by August 1, 1996.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Arizona External Affairs, Arizona State Office, P.O. Box 16563, Phoenix, AZ 85011–6563, 602/650–0504.

Dated: June 10, 1996.

Joanie Losacco,

Deputy of External Affairs.

[FR Doc. 96–15246 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–32–M

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

On April 25, 1996, a notice was published in the Federal Register (61 FR 18407) that an application had been filed with the U.S. Fish and Wildlife Service (Service) by the Smead Manufacturing Company for a permit to incidentally take, pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), threatened Utah prairie dog (*Cynomys parvidens*) in conjunction with otherwise legal activities including manufacturing facility construction and operation, in Cedar City, Iron County, Utah pursuant to the Implementation Agreement that implements the Habitat Conservation Plan prepared by the Smead Manufacturing Company.

Notice is hereby given that on May 29, 1996, as authorized by the provisions of the Act, the Service issued an incidental take permit (permit number PRT–814008) to the above-named party subject to certain conditions set forth therein. The permit was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Act, as amended.

Additional information on this permit action may be obtained by contacting the Assistant Field Supervisor, U.S. Fish and Wildlife Service, Utah Field Office, 145 East 1300 South Street, Suit 404, Salt Lake City, Utah, 84115, telephone (801) 524–5001, between the hours of 7:30 a.m. and 4:30 p.m. weekdays.

Dated: June 6, 1996.

Ralph O. Morgenweck,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–15270 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Proposal To Award Concession Permits; Public Notice

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award twenty-one (21) concession permtis authorizing continued operation of canoe rental, shuttle and related services for the public at Buffalo National River for a period of five (5) years from November 1, 1996, through October 31, 2001.

EFFECTIVE DATE: August 16, 1996.

ADDRESS: Interested parties should contact the Superintendent, Buffalo National River, P.O. Box 1173, Harrison, Arkansas 72602–1173, to obtain a copy of the prospectus describing the requirements of the proposed permits.

SUPPLEMENTARY INFORMATION: This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessionaires have performed their obligations to the satisfaction of the Secretary under existing permits which expire by limitation of time on October 31, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), each existing concessioner is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer,

provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If any of the existing concessionaires does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: May 14, 1996.

David N. Given,

Acting Field Director, Midwest Field Area.

[FR Doc. 96–15337 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–70–M

Proposal To Award Concession Permits; Public Notice

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award twenty (20) concession permits authorizing continued operation of canoe, inner tube, and johnboat rentals, merchandise stores, woodlots, hot showers and related services for the public of Ozark National Scenic Riverways for a period of five (5) years and will expire December 31, 2000.

EFFECTIVE DATE: August 16, 1996.

ADDRESS: Interested parties should contact the Superintendent, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, Missouri 63965, to obtain a copy of the prospectus describing the requirements of the proposed permits.

SUPPLEMENTARY INFORMATION: These permit renewals have been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared

The existing concessionaires have performed their obligations to the satisfaction of the Secretary under existing permits which expired by limitation of time on December 31, 1994/95, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), each existing concessioner is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: May 15, 1996.

Edward D. Carlin,

Acting Field Director, Midwest Area.

[FR Doc. 96–15338 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–70–M

Proposal To Award Concession Contracts; Public Notice

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award eleven concession contracts authorizing continued operation of commercially guided, interpretive whitewater river tours, for the public at Dinosaur National Monument for a period of five (5) years from January 1, 1997 through December 31, 2001.

EFFECTIVE DATE: October 15, 1996.

ADDRESS: Interested parties should contact the Superintendent, Dinosaur National Monument, 4545 Highway 40, Dinosaur, Colorado 81610, to obtain a copy of the Prospectus describing the requirements of the proposed contracts.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioners have performed their obligations to the satisfaction of the Secretary under existing permits which expire by limitation of time on December 31, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), are entitled to be given preference in the renewal of the contract, and in the award of a new contract providing that the existing concessioner submit a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by an existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner. If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer. The Secretary will consider and evaluate all offers received as a result of this notice.

Any offer, including that of the existing concessioner, must be received by the Superintendent, Dinosaur National Monument, 4545 Highway 40, Dinosaur, Colorado 81610, not later than one hundred and twenty (120) days following publication of this notice to be considered and evaluated.

Dated: June 4, 1996.

Linda L. Stoll,

Acting Superintendent, Colorado Plateau System Support Office.

[FR Doc. 96–15335 Filed 6–17–96; 8:45 am]

BILLING CODE 4310–70–M

Concession Permits Awarded for Buffalo National River, AR

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award eight (8) concession permits authorizing continued operation of johnboat rental, shuttle and guide services for the public at Buffalo National River for a period of five (5) years from December 1, 1996, through November 30, 2001.

EFFECTIVE DATE: August 16, 1996.

ADDRESSES: Interested parties should contact the Superintendent, Buffalo National River, P.O. Box 1173, Harrison, Arkansas 72602–1173, to obtain a copy of the prospectus describing the requirements of the proposed permits.

SUPPLEMENTARY INFORMATION: This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessionaires have performed their obligations to the satisfaction of the Secretary under existing permits which expire by limitation of time on October 31, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), each existing concessioner is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If any of the existing concessionaires does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: June 14, 1996.

David N. Given,

Acting Field Director, Midwest Field Area.

[FR Doc. 96–15336 Filed 6–14–96; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Holocaust Survivor Claims; Notice of Deadline for Filing of Claims

AGENCY: Foreign Claims Settlement Commission of the United States; Justice.

ACTION: Notice.

SUMMARY: The Foreign Claims Settlement Commission announces the establishment of a program to adjudicate the claims of certain United States survivors of the Holocaust for compensation pursuant to a September 19, 1995, agreement between the United States and Germany.

DATES: The deadline for filing of claims in this program is September 30, 1996.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission of the United States, U.S. Department of Justice, 600 E St., N.W., Suite 6002, Washington, DC 20579, Tel. (202) 616–6975, FAX (202) 616–6993.

Notice of Deadline for Filing of Holocaust Claims

Certain United States survivors of the Holocaust are eligible for compensation pursuant to a September 19, 1995, agreement between the United States and the Government of the Federal Republic of Germany.

The Foreign Claims Settlement Commission will conduct a claims program to identify persons eligible under the agreement. This will be the only opportunity for U.S. citizens to seek compensation from Germany through the U.S. Government for loss of liberty or damage to health due to Nazi persecution. The decisions of the Commission will serve as the basis for negotiation of a compensation figure between the U.S. Department of State and the German Government, which has already agreed in principle to compensate eligible claimants.

This program is open to those U.S. citizens who were U.S. citizens at the time of their persecution and were interned in concentration camps or under comparable conditions. The agreement excludes compensation for those who were subjected to forced labor only and for those who have previously received compensation from Germany.

Any person wishing to file a claim must request and complete an official claim form, providing information including:

(1) The name, address and telephone number of claimant;

(2) A brief narrative description of the circumstances leading to and the nature of the Nazi persecution, including the dates and places of internment, and the impact of persecution on the freedom and health of claimant;

(3) Documentary proof of United States citizenship both (a) at the time of Nazi persecution and (b) at present;

(4) Documentary proof of claimant's loss of liberty or damage to health as a result of Nazi persecution (for example, a certified copy of a contemporaneous government document or report of a contemporaneous medical examination, or sworn witness statements);

(5) Any additional information or documentation relevant to the level of compensation sought by the claimant.

Completed claim forms and supporting documentation must be submitted no later than September 30, 1996.

The Commission will conduct this program and render its decisions in accordance with its regulations, which are published in Chapter V of Title 45, Code of Federal Regulations (45 CFR 500 *et seq.*). In particular, attention is directed to 45 CFR 531.6(d), which provides that the claimant shall bear the burden of proof on all elements of a claim. A copy of the regulations is available from the Commission upon request.

Requests for claim forms should be addressed to: Foreign Claims Settlement Commission of the United States, Washington, DC 20579. Forms also may be requested by telephone, at (202) 616–6975, or by facsimile, at (202) 616–6993.

Approval has been obtained from the Office of Management and Budget for the collection of this information. Approval No. 1105–0068.

Delissa A. Ridgway,

Chair.

[FR Doc. 96–15296 Filed 6–14–96; 8:45 am]

BILLING CODE 4410–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (96–063)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

Copies of patent applications cited are available from the Office of Patent Counsel, Johnson Space Center, Mail Code HA, Houston, TX 77058. Claims are deleted from the patent applications to avoid premature disclosure.

DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Ed Fein, Patent Counsel, Lyndon B. Johnson Space Center, Mail Code HA, Houston, TX 77058; telephone (713) 483–0837, fax (713) 244–8452.

NASA Case No. MSC–22,329–1: Push Type Fastener.

NASA Case No. MSC–21,961–2: Accelerometer Method and Apparatus for Integral Display and Control Functions.

NASA Case No. MSC–22,618–1: Global Qualitative Flow-Path Modeling for Local State Determination in Simulation and Analysis.

NASA Case No. MSC–22,489–1: Microcapsules and Methods for Making.

NASA Case No. MSC–22,122–1: Pathogen Propagation in Cultured Three-Dimensional Tissue Mass.

NASA Case No. MSC–21,915–2: Polarization Perception Device.

NASA Case No. MSC–22,584–1: Enhanced Whipple Shield.

NASA Case No. MSC–21,715–2: Quantitative Method of Measuring Cancer Cell Urokinase and Metastatic Potential.

NASA Case No. MSC–22,544–1: Capacitance Probe for Fluid Flow and Volume Measurements.

NASA Case No. MSC–21,982–1: High Performance Circularly Polarized Microstrip Antenna.

NASA Case No. MSC–22,358–1: Method and Apparatus for Production of Powders.

NASA Case No. MSC–22,549–1: Light-Directed Ranging System Implementing Single Camera System for Telerobotics Applications.

NASA Case No. MSC–22,431–1: Ranging Apparatus and Method Implementing Stereo Vision System.

NASA Case No. MSC–22,515–1: Bending and Torsion Load Alleviator with Automatic Reset.

NASA Case No. MSC–22,424–2: Rotary Blood Pump.

NASA Case No. MSC–22,605–1–SB: Fiber-Optic Chemiluminescent Biosensors for Monitoring Aqueous Alcohols and Other Water Quality Parameters.

NASA Case No. MSC–22,366–1: Method and Apparatus for Measuring Fluid Flow.

NASA Case No. MSC–22,532–1: Adaptive Speech Recognition System Apparatus and Method.

NASA Case No. MSC–22,451–1: Particle Velocity Measuring System.

NASA Case No. MSC–22,569–1: Micromechanical Oscillating Mass Balance.

NASA Case No. MSC–22,616–1: Preservation of Liquid Biological Samples.

NASA Case No. MSC–22,463–2: Method and Apparatus for the Collection, Storage, and Real Time Analysis of Blood and Other Bodily Fluids.

NASA Case No. MSC–22,521–1–SB: Ground Isolation Circuit for Isolating a Transmission Line from Ground Interference.

NASA Case No. MSC–22,525–1: Retractable Visual Indicator for Carbon Filters.

NASA Case No. MSC–21,984–2: A Method of Producing Non-Neoplastic, Three-Dimensional Mammalian Tissue and Cell Aggregates under Microgravity Culture Conditions and the Products Produced Therefrom.

NASA Case No. MSC–21,984–3: A Method of Producing Non-Neoplastic, Three-Dimensional Mammalian Tissue and Cell Aggregates under Microgravity Culture Conditions and the Products Produced Therefrom.

Dated: June 7, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–15248 Filed 6–14–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice (96–062)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Hargraves Technology Corporation, of 14100 Wynfield Creek Parkway, Huntersville, North Carolina 28078, has requested an exclusive license to practice the invention disclosed in NASA Case No. LAR–15,348–1, entitled ''THIN-LAYER COMPOSITE-UNIMORPH PIEZOELECTRIC DRIVER AND SENSOR,'' ''THUNDER'', for which a U.S. Patent Application was filed by NASA on April 4, 1995. Written objections to the prospective grant of license should be sent to Mr. George F. Helfrich, Patent Counsel, Langley Research Center.

DATE: Responses to this notice must be received by August 16, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. George F. Helfrich, Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681; telephone (804) 864–9260.

Dated: June 10, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–15247 Filed 6–14–96; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company, et al.; 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 No. NPF–49 issued to Northeast Nuclear Energy Company (the licensee) for operation of the Millstone Nuclear Power Station, Unit No. 3, located in New London County, Connecticut.

The proposed amendment would revise the Technical Specifications (TS) for the Overtemperature delta T time constants in TS Table 2.2–1 and the Steam Line Pressure Negative Rate High Steam Line Isolation time constant on TS Table 3.3–4.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a [significant hazards consideration] SHC because the changes would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed Technical Specification changes will revise the mathematical notations associated with the time constants in Tables 2.2–1 and 3.3–4. The proposed changes do not modify the value of any time constant.

The proposed changes to Table 2.2–1 will replace the current equalities with inequalities in order to indicate the direction of conservatism for the time constants τ_1, τ_2, τ_4, τ_5 and τ_7. These time constants are used

in Note 1 and Note 3 for the Overtemperature [delta] T and Overpower [delta] T trips.

The proposed change to Table 3.3–4 will revise the direction of the inequality from ''less than or equal to'' to ''greater than or equal to'' in order to indicate the correct direction of conservatism for the time constant for the rate-lag controller for the Steam Line Pressure-Negative Rate-High trip.

The proposed changes will modify the setpoint calibration of plant instrumentation in a manner that is consistent with the Millstone Unit No. 3 setpoints analysis since the time constants will be treated as limits with a direction of conservatism. Based on the nature of the change, there is no effect on the probability of occurrence of previously evaluated accidents.

The changes noted above related to the time constants in Tables 2.2–1 are intended to indicate that the associated time constants are limiting values. The correction to the inequality in Table 3.3–4 is made to indicate the correct direction of conservatism for this time constant. The treatment of the time constants as limiting values and the correction to Table 3.3–4 are consistent with the setpoints analysis for Millstone Unit No. 3. No changes are made to the specific time constant values. Therefore, the changes will not increase the consequences of an accident previously evaluated.

Thus, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification changes will revise the mathematical notations associated with the time constants in Tables 2.2–1 and 3.3–4. The proposed changes do not modify the value of any time constant.

The proposed changes to Table 2.2–1 will replace the current equalities with inequalities in order to indicate the direction of conservatism for the time constants τ_1, τ_2, τ_4, τ_5 and τ_7. These time constants are used in Note 1 and Note 3 for the Overtemperature [delta] T and Overpower [delta] T trips.

The proposed change to Table 3.3–4 will revise the direction of the inequality from ''less than or equal to'' to ''greater than or equal to'' in order to indicate the correct direction of conservatism for the time constant for the rate-lag controller for the Steam Line Pressure-Negative Rate-High trip.

The proposed changes, regarding the treatment of time constants as limits, will modify the operation of plant equipment, specifically the Reactor Trip System and engineered safety features actuation system trips noted above. However, these changes regarding the treatment of time constants are consistent with the existing Millstone Unit No. 3 setpoints analysis.

Based on the nature of the changes, the changes do not introduce any new failure modes or malfunctions and do not create the potential for a new unanalyzed accident. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed Technical Specification changes will revise the mathematical notations associated with the time constants in Tables 2.2–1 and 3.3–4. The proposed changes do not modify the value of any time constant.

The proposed changes to Table 2.2–1 will replace the current equalities with inequalities in order to indicate the direction of conservatism for the time constants τ_1, τ_2, τ_4, τ_5 and τ_7. These time constants are used in Note 1 and Note 3 for the Overtemperature [delta] T and Overpower [delta] T trips.

The proposed change to Table 3.3–4 will revise the direction of the inequality from ''less than or equal to'' to ''greater than or equal to'' in order to indicate the correct direction of conservatism for the time constant for the rate-lag controller for the Steam Line Pressure-Negative Rate-High trip.

The proposed changes to Technical Specification Tables 2.2–1 and 3.3–4 will ensure that the associated time constants will be calibrated in a manner that is consistent with the Millstone Unit No. 3 setpoints analysis since the time constants will be treated as limits with a direction of conservatism. Therefore, based on the nature of the changes, there is no adverse effect on the results of the FSAR [Final Safety Analysis Report] accident analysis and it is concluded that these changes are safe. Additionally, the changes do not adversely effect any equipment credited in the safety analysis and do not effect the probability of occurrence of any plant accident.

The changes do not have any significant impact on the protective boundaries and there is no reduction in the margin of safety as specified in the Technical Specifications. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, 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 July 17, 1996, 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 Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut. 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 20555–0001, 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 Phillip F. McKee: 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 20555–0001, and to Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, 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 May 23, 1996, 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 Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 12th day of June 1996.

For the Nuclear Regulatory Commission.

Maudette Griggs,

Project Manager, Northeast Utilities Project Directorate, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–15256 Filed 6–14–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–272 AND 50–311]

Public Service Electric & Gas Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–70 and DPR–75 issued to the Public Service Electric & Gas Company (the licensee) for operation of the Salem Nuclear Generating Station, Units 1 and 2, located in Salem County, New Jersey.

The proposed amendments would make the following changes to the Technical Specifications: (1) Revise the Reactor Vessel Level Indication System (RVLIS) Action Statements to facilitate actions necessary for channel testing to be performed in Mode 3; (2) revise the Channel Calibration definition to better account for temperature detector channel calibration methodology; and (3) delete a requirement to install a jumper in the Auxiliary Feedwater actuation logic since a design change will result in the jumper function being performed by a relay.

Before issuance of the proposed license amendments, 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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

RVLIS is part of the safety-related display instrumentation [Updated Final Safety Ananlysis Report] UFSAR section 7.5. Its function is to display information for the operator ''to enable him to perform required manual functions and to determine the effect of manual actions taken following a reactor trip due to operational occurrences or accident conditions discussed in Section 15.'' RVLIS performs no automatic functions designed to mitigate the consequences of any accident.

Since no hardware changes are being made by this proposal and since the RVLIS is a post-accident monitoring system, no increase in the probability of any evaluated accident will occur as a result of implementation of the proposed change.

Other redundant, diverse instrumentation is available to operators to indicate inadequate core cooling.

Since RVLIS indication has limited use under normal conditions, performs no automatic function to mitigate an accident, and since it is augmented during emergency conditions by other independent indications of inadequate core cooling, its increased [allowed outage time] AOT does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

RVLIS is a Post Accident Monitoring System which does not initiate a transient or initiate any mitigating function. RVLIS's function is to assist the operator once an accident occurs.

Since no hardware changes are being made by this proposal and since the RVLIS is utilized as a post-accident monitoring system and is not considered a contributor to an accident, implementation of the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment to TS Table 3.3–11 will permit vendor recommended preventive maintenance-type activities to be performed on RVLIS following startups from extended outages. This will, potentially, enhance RVLIS reliability and availability and ensure that EOP [emergency operating procedure] data continues to be accurate.

Since the RVLIS is a post-accident monitoring system that has no automatic initiation function, changing the AOT will have no significant impact on the margin of safety provided by RVLIS. In addition, since there are independent, diverse indications of inadequate core cooling available to the operator, changing the AOT for RVLIS will not significantly reduce the margin of safety provided by the post-accident monitoring system.

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 20555–0001, 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 July 17, 1996, 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 Salem Free Public Library, 112 West Broadway, Salem, New Jersey. 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 20555–0001, 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 John F. Stolz: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mark J. Wetterhahn, Esquire, Winstron and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 31, 1996, 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 Salem Free Public Library, 112 West Broadway, Salem, New Jersey.

Dated at Rockville, Maryland, this 12th day of June 1996.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–15261 Filed 6–14–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–247 and 50–286]

Consolidated Edison Company of New York; Indian Point Nuclear Generating Units 2 and 3; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition dated May 18, 1995, by Ms. Connie Hogarth (Petition for action under 10 CFR 2.206). The Petition pertains to Indian Point Nuclear Generating Units 2 and 3.

In the Petition, the Petitioner requested that the operating licenses for Indian Point Units 2 and 3 be suspended until the licensees have completed the actions requested by Generic Letter 95–03. The Petitioner also requested that the U.S. Nuclear Regulatory Commission hold a public meeting in the vicinity of the plant to explain its response to this request.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the Petition. The reasons for this denial are explained in the ''Director's Decision Pursuant to 10 CFR 2.206'' (DD–96–06), the complete text of which follows this notice, and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C.

A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 10th day of June 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

ATTACHMENT TO ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206–96–06

Director's Decision Under 10 CFR 2.206

I. Introduction

On May 18, 1995, Ms. Connie Hogarth (Petitioner) filed a Petition with the U.S. Nuclear Regulatory Commission (NRC) pursuant to 10 CFR 2.206. The Petitioner requested that the operating licenses for Indian Point Nuclear Generating Units 2 and 3 be suspended until the licensees have completed the actions requested by Generic Letter (GL) 95–03, ''Circumferential Cracking of Steam Generator Tubes.'' The Petitioner also requested that the NRC hold a public meeting to explain its response to the suspension request.

The Petitioner stated that the impetus for GL 95–03 was the discovery at the Maine Yankee plant of steam generator tube cracks that had previously gone undetected due to inadequate inspection procedures. The Petitioner also stated that while GL 95–03 calls for comprehensive examination of steam generator tubes, it appears to allow licensees to postpone their evaluations until the next scheduled inspection.

On June 16, 1995, I informed the Petitioner that the Petition had been

referred to my office for preparation of a Director's Decision. I informed the Petitioner that her request for immediate suspension of the operating licenses of Indian Point Nuclear Generating Units 2 and 3 was denied because the continued operation of these units posed no undue risk to public health and safety. I further informed the Petitioner that her request for a public meeting to explain the denial of her request for license suspension was denied, primarily because the NRC assessment of risk associated with steam generator tube rupture events has already been articulated in public documents.

II. Discussion

The Petitioner requested that the operating licenses for Indian Point Nuclear Generating Units 2 and 3 be suspended until the licensees have completed the actions required by GL 95–03. The Petitioner's request appears to be based on her belief that without the immediate completion of the requested actions of GL 95–03, the steam generators in Indian Point Nuclear Generating Units 2 and 3 could be susceptible to one or more steam generator tube ruptures brought about by existing circumferential cracks.

Generic Letter 95–03 was issued on April 28, 1995, after Maine Yankee shut down due to primary-to-secondary leakage through theretofore undetected circumferential steam generator tube cracks. The generic letter was intended to alert licensees to the importance of performing steam generator inspections with equipment capable of detecting degeneration to which the steam generator tubes are susceptible. GL–95–03 requested three actions of licensees of pressurized water reactors. It requested (1) that they evaluate their operating experience to determine whether or not they could have a circumferential cracking problem, (2) that based on this evaluation they develop a safety assessment justifying continued operation until the next scheduled steam generator tube inspection, and (3) that they develop a plan for inspecting for circumferential cracking during the next steam generator tube inspection.

Stress corrosion cracking of the Indian Point Unit 2 steam generator tubes was first detected during the 1993 refueling outage. During the 1995 refueling outage Unit 2 conducted a steam generator inspection as required by their technical specifications; this inspection included a complete examination of all areas deemed most susceptible to circumferential cracking. This inspection, which used enhanced techniques and eddy current probes sensitive to indications of circumferential cracking, identified 114 tubes with potential circumferential crack indications; however, these may actually have been closely spaced axial indications. Since the licensee could not conclusively determine that these 114 tubes did not contain indications of circumferential cracks the worst case was assumed, that is, that the indications were in fact circumferential. The indications were logged as circumferential and all of these tubes were removed from service before the unit was restarted. All of the logged circumferential indications were deep within the tubesheet. The fact that the indications were all within the tubesheet is significant since, if a circumferential failure were to occur at this location, the structural strength lent to the tubes by the tubesheet would reduce the amount of primary-to secondary leakage. The licensee for Indian Point Unit 2 will continue to use inspection techniques capable of detecting circumferentially oriented tube degradation.

Because pitting corrosion had caused deterioration of the Indian Point Unit 3 steam generators, they were replaced in 1989 with steam generators designed and fabricated to reduce the possibility of corrosion-related problems; specifically, the new generators have tubes made of thermally treated Alloy 690. Four other nuclear plants in the United States have thermally treated Alloy 690 tubes and to date neither Indian Point Unit 3 nor any of the other four units have experienced tube cracks.

Circumferential cracking of steam generator tubes is accompanied by other forms of tube degradation that are readily detected by bobbin coil inspections. Since the bobbin coil inspections at Indian Point 3 have detected no service induced tube degradation, the staff has concluded that Indian Point 3 does not have a circumferential tube cracking problem. Indian Point 3 has not yet experienced steam generator tube degradation; nevertheless, the licensee has committed to performing an augmented inspection for indications of circumferential cracking during the next scheduled steam generator inspection. Unit 3 is currently operating and this inspection is required by May 1997.

The requirements placed on licensees to ensure steam generator tube integrity go beyond the requested actions of GL–95–03. Steam generator tube degradation is dealt with through a combination of inservice inspection, tube plugging and repair criteria, primary-to-secondary leak rate monitoring, and water chemistry analysis. In addition to the steam generator inspections required by their technical specifications, both Indian Point Nuclear Generating Units 2 and 3 are required to monitor primary-to-secondary leakage to ensure that, in the event that steam generator tubes begin to leak, operators will be able to bring the plant to a depressurized condition before a tube ruptures. In addition, both units are required to implement secondary water chemistry management programs that are designed to minimize steam generator tube corrosion.

The layers of protection that licensees are required to implement make multiple steam generator tube ruptures unlikely events. The NRC issued the results of its study of the risk and potential consequences of a range of steam generator tube rupture events in NUREG–0844, ''NRC Integrated Program for the Resolution of Unresolved Safety Issues A–3, A–4, and A–5 Regarding Steam Generator Tube Integrity'' dated September 1988. The staff estimated the risk contribution due to the potential for multiple steam generator tube ruptures. A combination of circumstances is required to produce such failures, specifically: (1) A main steam line break or other loss of secondary system integrity, (2) the existence of a large number of tubes susceptible to rupture in a particular steam generator, (3) the failure of operators to take action to avoid high differential pressure, and (4) the actual simultaneous rupture of a large number of tubes. In the NUREG–0844 assessment, the staff concluded that the probability of simultaneous multiple tube failure was small (approximately 10^{-5}), and the risk resulting from releases during steam generator tube ruptures with loss of secondary system integrity was also small.

III. Conclusion

Based on the facts that (1) adequate steam generator tube inspections have been performed at both Indian Point Nuclear Generating Units 2 and 3, (2) Unit 2 steam generator tubes that showed signs of circumferential cracking have been removed from service, (3) Unit 3 steam generator tubes show no sign of service induced corrosion, (4) Items (1), (2), and (3) above collectively constitute an acceptable response to the requested actions of GL–95–03 for both units, (5) operational limits are placed on primary to secondary leakage, (6) the risk of multiple steam generator tube rupture events is small, and (7) the NRC assessment of risk associated with steam generator tube rupture events has already been articulated in public

documents (NUREG–0844 and GL 95–03), I have concluded that neither the suspension of the licenses of Indian Point Nuclear Generating Units 2 and 3 nor the holding of a public meeting to explain this decision is warranted.

The Petitioner's request for action pursuant to 10 CFR 2.206 is denied. As provided in 10 CFR 2.206(c), a copy of the Decision will be filed with the Secretary of the Commission for the Commission's review. This Decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 10th day of June 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–15262 Filed 6–14–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request Review of a Revised Information Collection RI 30–2, RI 30–44

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management will be submitting to the Office of Management and Budget a request for clearance of a revised information collection. RI 30–2, Annuitant's Report of Earned Income, is used annually to determine if disability retirees under age 60 have earned income which will result in the termination of their annuity benefits. Beginning with the 1995 information collection, only annuitants who have qualifying earned income are required to respond. RI 30–44, Annuitant's Report of Income-Followup, is sent to annuitants whose returned RI 30–2 forms are unusable or damaged.

We estimate 21,000 RI 30–2 forms and 260 RI 30–44 forms are completed annually. The RI 30–2 takes approximately 35 minutes to complete for an estimated annual burden of 12,250 hours. The RI 30–44 takes approximately 5 minutes to complete for an estimated annual burden of 22 hours. The total annual estimated burden is 12,272 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received by August 16, 1996.

ADDRESSES: Send or deliver comments to—Victor C. Roy, Chief, Eligibility Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 2342, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–15215 Filed 6–14–96; 8:45 am]

BILLING CODE 6325–01–M

January 1996 Pay Adjustments

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The rates of basic pay and locality payments for certain categories of Federal employees were adjusted in January 1996, as authorized by the President. This notice documents those pay adjustments for the public record.

FOR FURTHER INFORMATION CONTACT: Brenda Roberts, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, (202) 606–2858 or FAX (202) 606–4264.

SUPPLEMENTARY INFORMATION: On August 31, 1995, the President issued an alternative plan under the authority of 5 U.S.C. 5303 and 5304a. The alternative plan set forth the January 1996 pay adjustments for General Schedule (GS) employees, including a 2-percent adjustment in GS rates of basic pay and various adjustments in locality payments in the 48 contiguous States and the District of Columbia.

On December 28, 1995, the President signed Executive Order 12984 (61 FR 237). This order implemented increases in rates of basic pay for various categories of Federal employees effective on the first day of the first applicable pay period beginning on or after January 1, 1996. The 1996 General Schedule, reflecting the 2-percent general increase approved by the President, was published in Schedule 1 of Executive Order 12984.

Executive Order 12984 also included the percentage amounts of the 1996 locality payments as established by the President's alternative plan of August 31, 1995. (See section 5 and schedule 9 of Executive Order 12984 (61 FR 246).) The publication of this notice satisfies the requirement in section 5(b) of Executive Order 12984 that OPM publish appropriate notice of the 1996 locality payments in the Federal Register.

Locality payments are authorized for General Schedule employees under 5 U.S.C. 5304 and 5304a. They apply in the 48 contiguous States and the District of Columbia. In 1996, there are 27 separate locality pay areas with locality payments ranging from 4.13 to 9.40 percent. These 1996 locality pay percentages, which replaced the lower locality pay percentages that were applicable in 1995, became effective on the first day of the first applicable pay period beginning on or after January 1, 1996. An employee's locality-adjusted annual rate of pay is computed by increasing his of her scheduled annual rate of basic pay (as defined in 5 U.S.C. 5302 (8) and 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.605.)

On December 8, 1995, the Director of the Office of Personnel Management (OPM), on behalf of the President's Pay Agent, extended the 1996 locality-based comparability payments to the same Governmentwide and single-agency categories of non-GS employees that were authorized to receive the 1995 locality payments. The Governmentwide categories include members of the Senior Executive Service, the Foreign Service, and the Senior Foreign Service; employees in senior-level (SL) and scientific or professional (ST) positions; administrative law judges; and Contract Appeals Board members.

Schedule 4 of Executive Order 12984 reflected a decision by the President to increase the rates of basic pay for members of the Senior Executive Service by 2 percent at levels ES–1 through ES–5. The rate for ES–6 remains unchanged, since it cannot exceed the rate for level IV of the Executive Schedule, which remains unchanged. (Public Law 104–52, November 19, 1995, provided that there would be no increase in the rates of basic pay for the Executive Schedule. See Schedule 5 of Executive Order 12984.)

Although not specifically addressed in Executive Order 12984, rates of basic pay for certain other Governmentwide categories of employees were also adjusted in January 1996. The minimum rate of basic pay for senior-level (SL) and scientific or professional (ST) positions increased by 2 percent (to $83,160) because it is calculated as a percentage of the minimum rate of basic pay for GS–15 of the General Schedule.

The maximum rate of basic pay for SL and ST positions remains unchanged because it is linked to level IV of the Executive Schedule ($115,700), which remains unchanged. Rates of basic pay for administrative law judges and Contract Appeals Board members remain unchanged in 1996 because these rates are calculated as a percentage of the rate for level IV of the Executive Schedule, which remains unchanged.

OPM has published ''Salary Table No. 96'' (OPM Doc. 124–48–6, January 1996), which provides complete salary tables incorporating the 1996 pay adjustments, information on general pay administration matters, locality pay area definitions, Internal Revenue Service withholding tables, and other related information. The rates of pay shown in ''Salary Table No. 96'' are the official rates of pay for affected employees and are hereby incorporated as part of this notice. Copies of ''Salary Table No. 96'' can be purchased from the Government Printing Office by calling (202) 512–1800. In addition, individual pay schedules can be downloaded directly from OPM's electronic bulletin boards. For instructions, please contact Denise Jenkins by calling (202) 606–2900.

U.S. Office of Personnel Management.

James B. King,

Director.

[FR Doc. 96–15216 Filed 6–14–96; 8:45 am]

BILLING CODE 6301–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Retroactive Suspension of Certain Generalized System of Preference Benefits for Pakistan

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: On November 6, 1995, the Office of the United States Trade Representative published a notice in the Federal Register providing an opportunity for the public to comment on a proposal to suspend certain Generalized System of Preferences (GSP) benefits for Pakistan. A press release was issued on March 7, 1996, announcing the U.S. Trade Representative's decision to recommend to the President the partial GSP suspension of Pakistan.

In order to put this recommendation into effect a Presidential Proclamation is necessary. This cannot be done until and unless the GSP program is reauthorized. In the past the GSP has been reauthorized on a retroactive basis if there has been a period of suspension, and duties on properly entered goods have been refunded by the U.S. Customs Service. However, the public is hereby notified that, should the GSP program be reauthorized, a Presidential Proclamation suspending certain Pakistani GSP benefits will be made retroactive to the effective date of this notice. Duties on the below listed Pakistani products will not be refunded if the products are entered, or withdrawn from warehouse, for consumption on or after the effective date of this notice.

The Pakistani products involved are:

HTSUS	Item (Terms below are for descriptive purposes only.)
9018.90.80	Surgical instruments.
4203.21.80	Gloves, mittens, etc., of leather, design for sports.
9506.62.80	Inflatable balls, excluding footballs or soccer balls.
4203.21.60	Ski or snowmobile gloves, mittens, etc.
9506.91.00	Articles or equipment for exercise.
4203.21.20	Batting gloves.
3926.20.30	Gloves designed for use in sports, of plastics.
4203.21.55	Cross-country ski gloves, mittens, etc.
5701.10.13	Carpets.
5702.10.10	Carpets.
5702.91.20	Carpets.
5805.00.20	Carpets.
6304.99.10	Carpets.
6304.99.40	Carpets.

EFFECTIVE DATE: July 1, 1996.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT:

Jon Rosenbaum, Assistant USTR for Trade and Development, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, (202) 395–6971.

Jennifer A. Hillman,

General Counsel.

[FR Doc. 96–14251 Filed 6–14–96; 8:45 am]

BILLING CODE 3190–01–M

[Docket No. 301–106]

Initiation of Section 302 Investigation and Request for Public Comment: Practices of the Government of Turkey Regarding the Imposition of a Discriminatory Tax on Box Office Revenues

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2412(b)(1)), with respect to certain acts, policies and practices of the Government of Turkey that may result in the discriminatory treatment of U.S. films in Turkey. The United States alleges that these acts, policies and practices are inconsistent with the General Agreement on Tariffs and Trade 1994 (GATT 1994), administered by the World Trade Organization (WTO). USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on June 12, 1996. Written comments from the public are due on or before noon on Monday, July 22, 1996.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Joseph Papovich, Deputy Assistant USTR for Intellectual Property, (202) 395–6864, or Thomas Robertson, Associate General Counsel, (202) 395–6800.

SUPPLEMENTARY INFORMATION: Section 302(b)(1) of the Trade Act authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as ''section 301'') with respect to any matter in order to determine whether the matter is actionable under section 301. Matters actionable under section 301 include, inter alia, the denial of rights of the United States under a trade agreement, or acts, policies, and practices of a foreign country that violate or are inconsistent with the provisions of, or otherwise deny benefits to the United States under, any trade agreement.

On June 12, 1996, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should be initiated to determine whether certain laws and regulations of Turkey affecting the taxation of box office revenues generated from the showing of foreign-origin films are actionable under section 301(a). Turkey's Law on Municipal Revenues (Law No. 2464) imposes a 25% municipality tax on box office revenues generated from the showing of foreign films, but not the revenue generated from the showing of domestic films. Current information is that the revenues are allocated to municipal coffers for general use.

Article III of the GATT 1994 provides, among other things, that the products of the territory of one WTO member imported into the territory of another WTO member shall not be subject to internal taxes or other charges of any kind in excess of those applied, directly or indirectly, to like domestic products. WTO members are also prohibited from applying internal taxes or internal charges to imported or domestic products so as to afford protection to domestic production. Turkey's imposition of a tax on box office revenues that is applied only to revenues generated by foreign films, and not to revenues generated by domestic films, would appear to be inconsistent with the obligations set forth in Article III of the GATT 1994.

Investigation and Consultations

As required in section 303(a) of the Trade Act, the USTR has requested consultations with the Government of Turkey regarding the issues under investigation. The request was made pursuant to Article 4 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article XXII of the GATT 1994. If the consultations do not result in a satisfactory resolution of the matter, the USTR will request the establishment of a panel pursuant to Article 6 of the DSU.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of WTO dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of Turkey which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Monday, July 22, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, D.C. 20508.

Comment will be placed in a file (Docket 301–106) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301–106) may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 10:00 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 96–15306 Filed 6–14–96; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22012; File No. 812–9954–01]

ITT Hartford Life and Annuity Insurance Company, et al.

June 11, 1996.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: ITT Hartford Life and Annuity Insurance Company (''ILA''), ICMG Registered Variable Life Separate Account One (''Separate Account''), and Hartford Equity Sales Company (''HESCO'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants request an order permitting the Separate Account and other separate accounts established in the future by ILA to support certain group flexible premium variable life insurance policies to deduct from premium payments an amount that is reasonably related to the increased federal tax burden of ILA resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended.

FILING DATE: The application was filed on October 30, 1995. An amended application was filed on May 29, 1996.

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 Commission 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 July 8, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, c/o Scott K. Richardson, Esq., Assistant Counsel, ITT Hartford Life Insurance Companies, P.O. Box 2999, Hartford, CT 06104–2999.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management) at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. ILA is a stock life insurance company engaged in the business of writing both individual and group life insurance and annuity policies in the District of Columbia and in all states except New York. ILA was redomesticated from Wisconsin to Connecticut on May 1, 1996. ILA is a wholly-owned subsidiary of Hartford Life Insurance Company.

2. The Separate Account was established by ILA under the laws of the state of Connecticut, and is registered as a unit investment trust under the 1940 Act. The assets of the Separate Account are not chargeable with liabilities arising out of any other business which ILA may conduct. Income and realized and unrealized capital gains and losses of the Separate Account will be credited to the Separate Account without regard to any of ILA's other income or realized and unrealized capital gains and losses, or the income, gains and losses of other ILA separate investment accounts.

3. The Separate Account presently consists of twelve investment divisions, each of which invests exclusively in the shares of investment options available through seven open-end management investment companies.

4. In the future, the board of directors of ILA may establish other separate accounts (''Future Accounts'') which may serve as funding vehicles for other variable life insurance policies issued by ILA. The Future Accounts will be organized as unit investment trusts, and will file registration statements under the 1940 Act and the Securities Act of 1933.

5. HESCO will serve as the principal underwriter for certain group flexible premium variable life insurance policies (''Policies'') and any other variable life insurance policies (''Future Policies'') issued in the future by ILA through the Separate Account or Future Accounts. HESCO is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers.

6. In 1990, Congress amended the Internal Revenue Code of 1986 (''Code'') by, among other things, enacting Section 848 thereof. Section 848 changed the federal income taxation of life insurance companies by requiring them to capitalize and amortize over a period of ten years part of their general expenses for the current year. Under prior law, those expenses were deductible in full from the gross income of the current year.

7. The amount of expenses that must be capitalized and amortized under Section 848 generally is determined with reference to premiums for certain categories of life insurance contracts (''specified contracts''). More specifically, an amount of expenses equal to a percentage of the premiums for the current year (*i.e.*, gross premiums minus return premiums and reinsurance premiums) must be capitalized and amortized for each specified contract. The percentage varies, depending upon the type of specified contract in question, in accordance with a schedule set forth in Section 848.

8. In effect, Section 848 accelerates the realization of income from certain insurance contracts and, accordingly, the payment of taxes on the income generated by those contracts. Taking into account the time value of money, Section 848 increases the tax burden of an insurance company because the amount of general expenses that must be capitalized and amortized is measured by the premiums received under certain insurance contracts.

9. The Policies and Future Policies to which a charge for the federal tax burden related to deferred acquisition costs (''tax burden charge'') will be applied are/will be among the specified contracts. They fall/will fall into the category of life insurance contracts under Section 848 for which 7.7% of net premiums received must be capitalized and amortized.

10. The increased tax burden resulting from the application of Section 848 may be quantified as follows. For each $10,000 of net premiums received by ILA under the Policies, ILA may capitalize $770.00 (*i.e.*, 7.7% of $10,000). $38.50 of that amount may be deducted in the current year, leaving $731.50 (*i.e.*, $770 minus $38.50) subject to taxation at the corporate tax rate of 35 percent. This works out to an increase in tax for the current year of $256.03 (*i.e.*, $0.35 \times \$731.50$). This increased federal income tax burden will be partially offset by deductions allowed during the next ten years as a result of amortizing the remainder of the $770—$77 in each of the following nine years, and $38.50 in year ten.

11. To the extent that capital must be used by ILA to satisfy its increased tax burden under Section 848, such profits are not available to ILA for investment. ILA submits that the cost of capital used to satisfy its increased federal income tax burden under Section 848 is, in essence, its targeted rate of return on invested capital. Because ILA seeks a targeted rate of return on its invested capital of 10 percent,[1] ILA submits that a discount rate of 10% is appropriate for use in calculating the present value of its future tax deductions resulting from the amortization described above.

12. Using a corporate tax rate of 35 percent, and assuming a discount rate of 10 percent, the present value of the federal income tax effect of the increased deductions allowable in the following ten years is $160.40. Because this amount partially offsets the increased tax burden, Section 848 imposes an increased tax burden on ILA equal to a present value of $95.63 ($56.03 minus $160.40) for each $10,000 of net premiums received under the Policies.

13. ILA does not incur incremental federal income tax when it passes on state premium taxes to contract owners because premium taxes are deductible when computing federal income taxes. The same is not true for federal income taxes. Therefore, to offset fully the impact of Section 848, ILA must impose an additional charge that would make it whole not only for the $95.63 additional tax burden attributable to Section 848, but also for the tax on the additional $95.63 itself. This additional charge can be computed by dividing $95.63 by the complement of the 35% federal corporate income tax rate (*i.e.*, 65%), resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.47% of net premiums.

14. Based on its prior experience, ILA expects that all of its current and future deductions will be fully taken. ILA submits that a charge of 1.25% of net premium payments would reimburse it for the impact of Section 848, taking into account the benefit to ILA of the amortization permitted by Section 848 and the use by ILA of a discount rate of 10% (which is equivalent to its targeted rate of return) in computing the future deductions resulting from such amortization.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission, by order upon application, may exempt any person, security or transaction (or any class or classes of persons, securities or transactions) from provisions of the 1940 Act or any rules thereunder, if and to the extent that the 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 1940 Act.

2. Applicants request an order of the Commission pursuant to Section 6(c) exempting them from the provisions of Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to permit ILA to deduct from premium payments received in connection with Policies and Future Policies an amount that is reasonable in relation in ILA's increased federal income tax burden related to the receipt of such premiums. Applicants further request an exemption from Rule 6e–3(T)(c)(4)(v) to permit the proposed deductions to be treated as other than ''sale load'' for the purposes of Section 27 of the 1940 Act and the exemptions from various provisions of that Section found in Rule 6e–3(T)(b)(13) under the 1940 Act.

3. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (excepts such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by Sections 26(a)(2) and

[1] In determining the targeted rate of return on invested capital used in arriving at this discount rate, ILA first identified a reasonable risk-free rate of return that can be expected to be earned over the long term. ILA then determined the premium it needs to earn over that risk-free rate of return because of the nature of the products it sells. Applicants represent that such factors are appropriate to consider in determining ILA's targeted rate of return on invested capital.

26(a)(3) of the 1940 Act. Sections 27(a)(1) and 27(h)(1), in effect, limit sales load on periodic payment plan certificates to 9% of total payments.

4. Certain provisions of Rule 6e–3(T) provide a range of exemptive relief for the offering of flexible premium variable life insurance policies such as the Policies and Future Policies. For example, subject to certain conditions, Rule 6e–3(T)(b)(13)(iii) provides exemptions from Section 27(c)(2) that include permitting the payment of certain administrative fees and expenses, the deduction of a charge for certain mortality and expense risks, and ''[t]he deduction of premium taxes imposed by any state or other governmental entity.''

5. Rule 6e–3(T)(c)(4) defines ''sales load'' charged during a contract period as the excess of any payments made during the period over the sum of certain specified charges and adjustments, including ''[a] deduction for and approximately equal to state premium taxes[.]'' Applicants submit that the proposed tax burden charge is akin to a state premium tax charge in that it is an appropriate charge related to ILA's tax burden attributable to premiums received under the Policies and Future Policies.

6. Applicants represent that the requested exemptions from Rule 6e–3(T)(c)(4)(v) are necessary in connection with Applicants' reliance on certain provisions of Rule 6e–3(T)(b)(13), particularly on subparagraph (b)(13)(i), which provides exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may rely on Rule 6e–3(T)(b)(13)(i) if they meet the Rule's alternative limitations on ''sales load,'' as defined in Rule 6e–3(T)(c)(4). Applicants acknowledge that a deduction for an insurance company's increased federal tax burden does not fall squarely within any of the specified charges or adjustments which are excluded from the definition of ''sales load'' in Rule 6e–3(T)(c)(4). Nevertheless, Applicants submit that there is no public policy reason for treating such increased federal tax burden as sales load.

7. Applicants assert that the public policy which underlies Rule 6e–3T(b)(13)(i), like that which underlies Sections 27(a)(1) and 27(h)(1), is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants submit that the treatment of a federal income tax charge attributable to premium payments as sales load would in no way further this legislative purpose because such a deduction bears no relation to the payment of sales commissions or other distribution expenses. Applicants assert that the Commission has concurred in this conclusion by excluding deductions for state premium taxes from the Rule 6e–3(T)(c)(4) definition of ''sales load.''

8. Applicants submit that Rule 6e–3(T)(c)(4) tailors the general terms of Section 2(a)(35) of the 1940 Act to variable life insurance contracts. Applicants further submit that, just as the percentage limits of Sections 27(a)(1) and 27(h)(1) depend on the definition of ''sales load'' in Section 2(a)(35) for their efficacy, the percentage limits in Rule 6e–3(T)(b)(13)(i) depend on Rule 6e–3(T)(c)(4). Applicants submit that Rule 6e–3(T)(c)(4) does not depart, in principal, from Section 2(a)(35).

9. Applicants assert that Section 2(a)(35) excludes from ''sales load'' expenses or fees ''not properly chargeable to sales or promotional activities.'' Because the proposed tax burden charge will be used to compensate ILA for its increased federal tax burden attributable to the receipt of premiums, and such cost is not properly chargeable to sales or promotional activities, Applicants submit that not treating the proposed tax burden charge as sales load is consistent with the policies of the 1940 Act.

10. Applicants further assert that Section 2(a)(35) excludes from the definition of ''sales load'' deductions for premiums for ''issue taxes.'' Applicants submit that the exclusion of charges for expenses attributable to federal taxes from sales load (as defined in Section 2(a)(35)) is consistent with the policies of the 1940 Act. By extension, Applicants submit, it is equally consistent to exclude such charges, including the proposed tax burden charge, from the definition of ''sales load'' in Rule 6e–3(T)(c)(4).

11. For these reasons, Applicants submit that deducting a charge from variable life insurance contract premium payments for an insurer's tax burdens attributable to its receipt of such payments, and excluding that charge from sales load, is consistent with the policies of the 1940 Act. Applicants assert that this is because such a deduction is an appropriate charge related to the insurer's tax burden attributable to the premium payments received.

12. Applicants seek the relief requested herein with respect to the Policies and Future Policies. Without the requested relief, ILA would have to request and obtain exemptive relief for each Future Contract to be issued. Such additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this request for exemptive relief.

13. Applicants submit that the requested relief would promote competitiveness in the variable life insurance market by eliminating the need for them to file redundant exemptive applications, thereby reducing ILA's administrative expenses and maximizing efficient use of its resources. Applicants further submit that the delay and expense involved in having to seek exemptive relief repeatedly would impair ILA's ability to take advantage of business opportunities as they arise. Moreover, if Applicants were required to seek exemptive relief repeatedly with respect to the issues addressed in this application, investors would not receive any benefit or additional protection thereby, and might be disadvantaged as a result of increased overhead expenses for ILA. For these reasons, Applicants assert that the requested relief is appropriate in the public interest and consistent with the protection of investors.

Conditions for Relief

Applicants agree to comply with the following conditions for relief.

1. ILA will monitor the reasonableness of the tax burden charge.

2. The registration statement for the Policies and Future Policies under which the tax burden charge is deducted will: (a) disclose the charge; (b) explain the purpose of the charge; and (c) state that the charge is reasonable in relation to ILA's increased federal tax burden under Section 848 resulting from the receipt of premiums.

3. The registration statement for any Policies of Future Policies under which a tax burden charge is deducted will contain as an exhibit an actuarial opinion as to: (a) the reasonableness of the charge in relation to ILA's increased federal tax burden under Section 848 resulting from the receipt of premiums; (b) the reasonableness of the targeted rate of return used in calculating such charge; and (c) the appropriateness of the factors taken into account by ILA in determining the targeted rate of return.

Conclusion

For the reasons and upon the facts set forth above, Applicants submit that the requested exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder—to permit the deduction of 1.25% of premium payments under the Policies and any Future Policies—would be 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, by delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–15275 Filed 6–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37298; File Nos. SR–OCC–96–04 and SR–NSCC–96–11]

Self-Regulatory Organizations; The Options Clearing Corporation; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Changes Relating to an Amended and Restated Options Exercise Settlement Agreement Between the Options Clearing Corporation and the National Securities Clearing Corporation

June 10, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 6, 1996, and April 6, 1996, The Options Clearing Corporation (''OCC'') and the National Securities Clearing Corporation (''NSCC''), respectively, filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes (File Nos. SR–OCC–96–04 and SR–NSCC–96–11) as described in Items I, II, and III below, which items have been prepared primarily by OCC and NSCC, respectively. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The purpose of the proposed rule changes is to put into effect the Third Amended and Restated Options Exercise Settlement Agreement (''Third Restated Agreement'')[2] between OCC and NSCC providing for the settlement of exercises and assignments of equity options.[3] The proposal also seeks to make related changes to OCC's Rules, primarily to Rule 601, which sets forth the calculation of margin requirements for equity options, and to make related changes in NSCC's clearing fund formula in order to exclude from the clearing fund calculation trades for which NSCC has protection under the terms of the Third Restated Agreement.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, OCC and NSCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. OCC and NSCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In 1977, OCC signed an Options Exercise Settlement Agreement with Stock Clearing Corporation (NSCC's predecessor), with MCC, and with SCCP. In 1991, OCC and NSCC, MCC, and SCCP each signed a Restated Options Exercise Agreement (''Restated Agreements''). The Restated Agreements never became effective because in 1993, prior to Commission approval of proposed rule changes pertaining to these Restated Agreements, OCC and NSCC, MCC, and SCCP each signed a Second Restated Options Exercise Agreement (''Second Restated Agreements'').[5] The Commission approved the proposed rule changes pertaining to the Second Restated Agreements.[6] However, after the proposals were approved the parties to the Second Restated Agreements agreed to suspend the effectiveness of those agreements because OCC's proposed implementation of a two product group margin system would have caused increases in the margin requirements far in excess of the increases which had been anticipated when the Second Restated Agreements were originally proposed. The Second Restated Agreements never became effective.

OCC and NSCC now propose to make effective the Third Restated Agreement executed by them. The Third Restated Agreement will become effective upon approval by the Commission of the proposed rule changes herein.

Changes Made by the Third Restated Agreements

The Third Restated Agreement alters the provisions of the Second Restated Agreement between OCC and NSCC principally to establish a two-way guarantee between OCC and NSCC and to change the guarantee formulas. In the Second Restated Agreement, OCC guaranteed compensation to NSCC for losses incurred by NSCC in closing out the exercise and assignment activity (''E&A activity'') of a defaulting OCC clearing member, and NSCC agreed to guarantee settlement of pending stock trades arising from E&A activity commencing at the same time that it guarantees regular-way settlements of ordinary stock transactions (*i.e.*, at midnight of T+1). However, the Second Restated Agreement did not require NSCC to return to OCC any net value remaining from the liquidation of the E&A activity of a defaulting clearing member. As a result, OCC provided for a two product group margin system for equity options to ensure that OCC gave no margin credit for net positive values of a clearing member's E&A activity that would be unavailable to OCC if NSCC were to liquidate the clearing member's positions at NSCC arising from its E&A activity.

The Third Restated Agreement provides for a two-way guarantee between OCC and NSCC. Thus, if NSCC suspends a common member[7] and

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] A copy of the executed Third Restated Agreement is attached as Exhibit A to OCC's and to NSCC's filings. A copy of each of the filings and all exhibits is available for copying and inspection in the Commission's Public Reference Room or through OCC or NSCC, respectively.

[3] OCC has provided Stock Clearing Corporation of Philadelphia (''SCCP'') with a Third Restated Agreement which has terms substantially parallel to the terms of the Third Restated Agreement between OCC and NSCC. OCC has advised SCCP that it is prepared to execute a Third Restated Agreement with SCCP if and when SCCP wishes to do so. Because Midwest Clearing Corporation (''MCC'') has withdrawn from the clearance and settlement business, OCC plans to propose entering into a termination agreement with MCC to formally terminate the Second Restated Agreement between OCC and MCC.

[4] The Commission has modified the text of the summaries prepared by OCC and NSCC.

[5] The three Second Restated Agreements were filed by OCC with the Commission in Amendment No. 2 to File No. SR–OCC–92–5, and also were filed by NSCC, SCCP, and MCC in amendments to File No. SR–NSCC–91–7, File No. SR–SCCP–92–01, and File No. SR–MCC–92–02, respectively.

[6] Securities Exchange Act Release No. 33543 (January 28, 1994), 59 FR 5639 [File Nos. SR–OCC–92–05, SR–NSCC–91–07, SR–SCCP–92–01, and SR–MCC–92–02].

[7] In the Third Restated Agreement, the term common member refers to an OCC clearing member that also is an NSCC member and that has designated NSCC as its designated clearing corporation for purposes of effecting settlement of its E&A activity. Under the Third Restated Agreement, like the Second Restated Agreement, three alternatives are available to a clearing member that does not want to become a member of NSCC or SCCP but wants to settle its E&A activity through another entity which is a member of NSCC or SCCP. A clearing member may appoint (1) another OCC clearing member (an ''appointed clearing member''), (2) a member of NSCC (a ''nominated correspondent''), or (3) if the OCC clearing member is a Canadian clearing member, the Canadian Depository for Securities. These three alternative settlement arrangements are described in detail in Amendment No. 2 to File No. SR–OCC–92–5. This notice of filing describes the provisions of the Third Restated Agreement with respect to an OCC clearing member that is a common member, but the provisions of the Third Restated Agreement are designed to apply to each of the alternative settlement arrangements.

incurs a loss, OCC would owe NSCC an amount determined in accordance with the formula described below, and if OCC suspends a common member and incurs a loss, NSCC would owe OCC an amount determined in accordance with the formula described below. The guarantee from NSCC to OCC entitles OCC to reimbursement from NSCC if OCC were to incur a loss in liquidating the positions of a suspended clearing member to whom OCC had been giving margin credit for its E&A activity which had been reported to NSCC for settlement. This entitlement permits OCC to give margin credit for long option positions in firm accounts and market-maker's and specialist's accounts that have been reported to NSCC for settlement and therefore allows OCC to calculate margin for equity options in one product group.

The guarantee of each clearing corporation to the other in the Third Restated Agreement is unconditional in that each clearing corporation's guarantee is not dependent on the ability of the clearing corporation to use assets of its suspended member to make a guarantee payment. Therefore, OCC and NSCC believe that the trustee for a bankrupt OCC clearing member or for a bankrupt NSCC member should not be able to successfully attack OCC's or NSCC's right to receive guarantee payments from each other or to make guarantee payments to each other in accordance with the provisions of the Third Restated Agreement. OCC or NSCC would seek recovery of the amount of any guarantee payment which either made to the other from the assets of the suspended clearing member whose failure necessitated the payment. OCC and NSCC believe that its authority to do so would be within the special provisions of the Bankruptcy Code that protect the close-out activities of securities clearing agencies.[8]

Guarantee Formulas

The Second Restated Agreement between NSCC and OCC provided that OCC would compensate NSCC for losses incurred by NSCC in closing out the E&A activity of a defaulting participating member[9] reported by OCC to NSCC. The amount that OCC guaranteed to NSCC would be the smallest of three quantities referred to in the Second Restated Agreement as the net options loss, the net overall loss, and the maximum guarantee.[10] The Third Restated Agreement between OCC and NSCC sets forth a revised formula for the calculation of the amount which OCC would owe NSCC if NSCC were to suspend a common member. It also provides an analogous formula for the calculation of the amount which NSCC would owe OCC if OCC were to suspend a common member.

Pursuant to the Third Restated Agreement, the formula for payment by OCC under its guarantee to NSCC provides that if NSCC were to suspend a common member, OCC would owe NSCC the lesser of the common member's (i) net member debit to NSCC or (ii) calculated margin requirement. The formula for payment by NSCC under its guarantee to OCC provides that if OCC were to suspend a common member, NSCC would owe OCC the lesser of the common member's (i) net member debit to OCC or (ii) calculated margin Credit.[11] The term net member debit to NSCC is defined to mean the actual net overall debit or loss, if any, realized by NSCC from its close-out of the common member (*i.e.*, the debit or loss after application of all assets available to NSCC including the common member's contribution to NSCC's clearing fund).[12] The term net member debit to OCC is defined to mean the actual net overall debit or loss, if any, realized by OCC from its close-out of the common member (*i.e.*, the debit or loss after application of all assets available to OCC including the common member's margin deposits and contribution to OCC's clearing fund). The term calculated margin credit is defined to mean the algebraic sum of the mark-to-market amounts[13] calculated by OCC's margin system relating to settlements arising from E&A activity with respect to which NSCC has become unconditionally obligated to settle and the mark-to-market amounts calculated by NSCC's system for offsetting activity in NSCC's system in the same underlying stocks if the algebraic sum is positive (*i.e.*, if the sum represents a net positive value of the settlements). The term calculated margin requirement is defined to mean the same algebraic sum if the algebraic sum is negative (*i.e.*, if the sum represents a net negative value of the settlements).[14]

The calculation of the calculated margin requirement or calculated margin credit will take into account the value of offsetting deliver and receive obligations at NSCC including fails but including free deliver and receive obligations in the underlying stocks in which each common member has E&A activity. NSCC will give OCC a report of

[8] 11 U.S.C. §§ 555 and 559.

[9] As defined in the Second Restated Agreement, the term participating member generally refers to an entity that is an OCC clearing member and also is a participant in a correspondent clearing corporation (''CCC'') (*i.e.*, NSCC, MCC, or SCCP) or an entity that is a party to any of the three alternative arrangements for effecting settlement through a CCC as provided under the Second Restated Agreement.

[10] The net options loss was essentially the actual net loss incurred by NSCC in closing out the E&A activity with respect to which NSCC was unconditionally obligated at the time of the default. The net overall loss was essentially the actual net loss incurred by NSCC in closing out all transactions of the defaulting participating member with respect to which NSCC was unconditionally obligated at the time of the default. The maximum guarantee amount was essentially the sum of the mark-to-market amounts, positive and negative, for all E&A activity with respect to which NSCC was unconditionally obligated at the time of the default. The term mark-to-market amount was defined in the Second Restated Agreement to mean the difference between the exercise price of an option and the closing price of the underlying stock on the trading day immediately preceding the then most recently completed regular morning settlement with OCC of the participating member. As set forth in footnote 13 below, the term is defined somewhat differently in the Third Restated Agreement.

[11] Generally, if either NSCC or OCC suspended a common member, the other would also suspend the common member. OCC's Rule 1102(a) entitles OCC to suspend a clearing member which had been suspended by its designated clearing corporation (Securities Exchange Act Release No. 33543 (January 28, 1994) 59 FR 5639 [File No. SR–OCC–92–05]). However, the two formulas under the Third Restated Agreement would require at most a payment by one of the two clearing corporations to the other and not to a payment by each clearing corporation to the other. This is true because the suspended common member's E&A activity in settlement at NSCC would generate either a calculated margin requirement or a calculated margin credit but not both. Thus, the application of at least one of the two formulas would result in a guaranteed amount equal to zero.

[12] The net member Debit to NSCC concept is similar to the net overall loss concept under the Second Restated Agreement. However, the concepts differ in that the net overall loss was the net loss resulting from the close-out of all of a suspended member's settlement activity at NSCC whereas the net member debit to NSCC is the net debit remaining after application of all of a suspended member's assets that are available to NSCC. The difference in these concepts reflects a judgment on the part of the two clearing corporations that the guarantee of each of the other should not obligate either to make any payment to the other if the other in fact has sufficient assets of the suspended member to make itself whole without recourse to the clearing fund deposits of its other members.

[13] Under the Third Restated Agreement, the term mark-to-market amount is defined to mean: (i) with respect to any option exercise or assignment position, the difference between the value of the position calculated using its exercise price and its closing price on the preceding trading day and (ii) with respect to any other position at NSCC, the difference between the value of the position calculated using its trade price and its closing price on the preceding trading day.

[14] The calculated margin requirement concept is similar to the maximum guarantee amount concept under the Second Restated Agreement. The concepts differ in that the maximum guarantee amount did not take into account offsetting activity in NSCC's system in the same underlying stocks. OCC and NSCC have concluded that the calculated margin requirement and calculated margin credit concepts render the net options loss concept under the Second Restated Agreement superfluous. Thus, there is no counterpart in the guarantee formula in the Third Restated Agreement to the net options loss concept in the Second Restated Agreement.

offsetting deliver and receive obligations in its system on a daily basis prior to 8:00 P.M. Central Time.

The calculation of the calculated margin requirement or calculated margin credit is perhaps best illustrated with an example. Suppose that ABC is a common member of NSCC and OCC, that ABC is assigned the exercise of 100 XYZ June 85 call options, that the closing price of XYZ on the day after the exercise (''E+1'') is 90, and that ABC has no other E&A activity at all. If ABC also has no non-E&A settlements in XYZ in settlement at NSCC, the calculated margin requirement for ABC would be $50,000 (90 minus 85 equals $5.00 per share for each of 10,000 shares). If ABC's non-E&A activity at NSCC in XYZ netted to a right to receive 5000 shares at a weighted average price of 87, and if NSCC gave OCC notice to that effect prior to 8:00 P.M. on E+1, then the $15,000 in-the-money value of those shares would be taken into account as an offsetting obligation, and the calculated margin requirement for ABC would be $35,000 commencing at the time on E+2 when OCC is scheduled to make regular daily money settlement with ABC.[15] If ABC's non-E&A activity at NSCC in XYZ instead netted to a right to receive 15,000 shares at a weighted average price of 87 and if NSCC gave OCC notice to that effect prior to 8:00 P.M. on E+1, the value of only 10,000 of those shares (*i.e.*, the amount on the opposite side of the market from the obligation to deliver created by the assigned call) would be taken into account in calculating the calculated margin requirement. Those 10,000 shares would have an in-the-money value of $30,000, and the calculated margin requirement for ABC would be $20,000 commencing at the time on E+2 when OCC is scheduled to make regular daily money settlement with ABC.

OCC reports E&A activity to NSCC each night. Offsetting positions information reported back to OCC by NSCC on the evening of E+1 would be taken into account in the calculation of the calculated margin requirement or calculated margin credit and would be reflected in OCC's regular morning settlement on the morning of E+2. Information reported back to OCC by NSCC on the evening of E+2 would be taken into account in any calculation of the calculated margin requirement or calculated margin credit and would be reflected in OCC's regular morning settlement on the morning of E+3.

Although NSCC will provide OCC with reports of offsetting deliver and receive obligations in its system on a daily basis and although OCC will monitor these reports for unusual position concentrations, OCC will not actually use the information in the reports in its margin calculations for its members.[16]

OCC's guarantee in the Third Restated Agreement is similar to its guarantee in the Second Restated Agreement in that the guarantee does not cover the exposure of NSCC to loss from exercise settlements that would result if a participating member[17] transfers settlements from its account at NSCC to the account of any other member of NSCC (even another participating member or another member that is an affiliate of the participating member) and that second member defaults on its obligations to NSCC with respect to those settlements.

Delivery of Stock Held in Escrow

The Second Restated Agreement between NSCC and OCC contemplated that OCC would, if necessary, deliver to NSCC stock held in lieu of margin to cover a suspended clearing member's short call positions against payment by NSCC of the exercise price for the positions and that the value of any such covered short position would not be taken into account in determining the amount guaranteed by OCC to NSCC. In contrast, the Third Restated Agreement does not contemplate that OCC will deliver stock held to cover short call positions because, as described above, the Third Restated Agreement provides for taking the value of offsetting deliver and receive obligations at NSCC into account in the calculation of the calculated margin requirement or calculated margin credit.

Amendments to OCC Rule 601

Because of the guarantee extended by NSCC to OCC, OCC proposes to amend Rule 601 to enable OCC to give margin credit for long option positions in firm, market-makers', and specialists' accounts that have been reported to NSCC for settlement. As a result, OCC will be able to calculate margin for equity options in one product group. The amendments to Rule 601 essentially reverse changes which were proposed in File No. SR–OCC–92–5.[18]

Amendment to OCC Rule 1107

OCC proposes to amend Rule 1107 to provide that OCC will liquidate securities deposited to cover assigned short call positions and use the proceeds to reimburse itself for the incremental amount, if any, which OCC is obligated to pay to the designated clearing corporation by reason of the covered short positions as well as for the exercise price of the covered options and for any costs associated with the liquidation.

Amendment to NSCC's Clearing Fund Formula

NSCC proposes to amend its clearing fund formula in order to exclude from the calculation trades for which NSCC has protection under the terms of the Third Restated Agreement.[19]

OCC and NSCC believe the proposed rule changes are consistent with the purposes and requirements of Section 17A of the Act because the proposals (i) will enhance the system used by OCC to effect settlement of exercises and assignments of equity options by providing for a two-way guarantee between OCC and NSCC thereby permitting OCC to return to a one product group margin system and (ii)

[15] OCC currently collects from clearing members who owe OCC a net dollar amount in regular daily settlement at 9:00 A.M. and pays clearing members who are entitled to receive a net dollar amount in regular daily settlement at 10:00 A.M. In the example in the text, OCC would be obligated to take the in-the-money value of ABC's non-E&A activity into account in calculating ABC's calculated margin requirement if NSCC suspended ABC after 10:00 A.M. (at the latest) even if ABC in fact failed to make money settlement with OCC on E+2. OCC staff has concluded after discussing with NSCC staff the question of when offsetting non-E&A activity should be taken into account that the time of regular daily money settlement is an appropriate time to incorporate the information in the preceding evening's report from NSCC into calculations of the calculated margin requirement or calculated margin credit.

[16] Unlike NSCC, OCC employs three types of accounts for its members: customer accounts, market-maker accounts, and firm accounts. Separate margin calculations are made with respect to each type of member account. Therefore, in order to use the information in NSCC's reports in OCC's margin calculations, OCC would have to disaggregate the information received from NSCC on an account-by-account basis. This disaggregation, even if possible, could not be done without major changes in both OCC's and NSCC's systems.

[17] Under the Third Restated Agreement the term participating member specifically refers to (1) a common member, (2) an NSCC clearing member that (i) has been appointed as an appointed clearing member by an OCC clearing member that is an appointing clearing member and (ii) has designated NSCC as its designated clearing corporation for the settlement of its E&A activity. (3) an OCC clearing member that (i) is a nominating clearing member, (ii) has appointed a nominated correspondent that is an NSCC member, and (iii) has designated NSCC as its designated clearing corporation for the settlement of its E&A activity, and (4) an OCC clearing member that is a Canadian clearing member. The terms appointing clearing member, appointed clearing member, nominating clearing member, and nominated correspondent are defined in Article I of OCC's By-Laws.

[18] *Supra* note 6.

[19] The complete text of the amendments to NSCC's clearing fund formula is set forth in Exhibit A to NSCC's filing. A copy of the filing and all exhibits is available for copying and inspection in the Commission's Public Reference Room or through NSCC.

will enhance NSCC's ability to protect itself and its members against loss.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

OCC and NSCC do not believe the proposed rule changes will impose any material burden on competition.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC or NSCC with respect to the proposed rule changes, and none have been received by OCC or NSCC.

III. Date of Effectiveness of the Proposed Rule Changes 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 OCC and NSCC consent, the Commission will:

(A) By order approve the proposed rule changes or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC and NSCC. All submission should refer to the File Nos. SR–OCC–96–04 and SR–NSCC–96–11 and should be submitted by July 8, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–15274 Filed 6–14–96; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration.

ACTION: New routine use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e) (4) and (11)), we are issuing public notice of our intent to establish a new routine use of information maintained in the Privacy Act system of records entitled Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OSR, 09–60–0058. (For convenience, we will refer to the system as the Enumeration System.) The proposed routine use provides for disclosure of SSN and citizenship information to employers in connection with a pilot program to verify the employment authorization of newly-hired employees.

We invite public comments on this publication.

DATES: We filed a report of an altered systems of records—new routine use with the Chairman, Committee on Government Reform and Oversight of the House of Representatives, the Chairman, Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on June 4, 1996. The routine use will become effective as proposed, without further notice on July 29, 1996, unless we receive comments on or before that date that would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. Comments may be faxed to (410) 966–0869 or sent to internet address willie.j.polk@ssa.gov. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Mr. Willie J. Polk, Chief, Confidentiality and Disclosure Branch, Office of Disclosure Policy, Social Security Administration, 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 410–965–1753.

SUPPLEMENTARY INFORMATION:

A. Discussion of Proposed Routine Use

On February 7, 1995, President Clinton announced that SSA, in partnership with the Immigration and Naturalization Service (INS), will conduct a pilot project to verify SSNs and employment authorization for newly-hired employees.

To work in the United States (U.S.), a person must be a U.S. citizen or an alien lawfully admitted to the country and authorized to work. Employers are currently required to view documents from all newly-hired employees to verify their identities and their authorization to work in the U.S. That process has been cumbersome for employers and is generally viewed as ineffective at identifying unauthorized workers. It has also been found to provide an opportunity for discrimination against people who look or sound foreign.

The Commission on Immigration Reform (also known as the Jordan Commission) released an interim report to the Congress in September 1994 that proposed a computer registry based on SSA and INS data that employers could check to determine if a newly-hired employee is authorized to work. The Commission recommended that the President immediately pilot the registry in the five States with the highest levels of illegal immigration and several less affected States. SSA and INS estimate it would take at least 5 years after the enactment of legislation to set up the joint computer registry proposed by the Jordan Commission. The President has authorized SSA and INS to develop pilot projects to test the effectiveness of some of the concepts embodied in the computer registry proposal, and to test the technical feasibility of matching data from the two agencies' databases.

The focus of the current pilot project would involve a two-step process using existing SSA and INS data bases. Current plans call for selected volunteer employers to provide SSA with a newly-hired employee's SSN, name and date of birth. SSA would match that information against the Enumeration System data base. If the identifying information furnished by the employer does not match the data in the Enumeration System, SSA would so inform the employer. If there is a match, SSA would also check for citizenship/alien status coding. If the Enumeration System indicates that the employee is a U.S. citizen, SSA's response would

[20] 17 CFR 200.30–3(a)(12) (1995).

convey this information and no further inquiries would be necessary. If the Enumeration System indicates that the employee was an alien at the time he or she last applied for a social security card, SSA would advise the employer to check with INS to determine whether the employee is authorized to work.

To comply with the Privacy Act (5 U.S.C. 552a) when disclosing information to the employers participating in the pilot, we are proposing to establish the following routine use:

In connection with a pilot program, conducted with the Immigration and Naturalization Service under 8 U.S.C. 1324a(d)(4) to test methods of verifying that individuals are authorized to work in the United States, the Social Security Administration will inform an employer participating in such pilot program that the identifying data (Social Security number, name and date of birth) furnished by an employer concerning a particular employee match, or do not match, the data maintained in this system of records, and when there is such a match, that information in this system of records indicates that the employee is, or is not, a citizen of the United States.

B. Compatibility of Proposed Routine Use

We are proposing the routine use discussed above in accordance with the Privacy Act (5 U.S.C. 552a(a)(7), (b)(3), and (e) (4) and (11)) and our disclosure regulation (20 CFR part 401). The Privacy Act permits us to disclose information about individuals without their consents for a routine use, i.e., where the information will be used for a purpose that is compatible with the purpose for which we collected the information. The disclosures that will be made under the proposed routine use meet the compatibility requirements in the Privacy Act and the regulation as discussed below.

Under 8 U.S.C. 1324a(a)(1), the Immigration and Nationality Act provides that it is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the U.S. an individual without verifying that the individual is authorized to work in the U.S. Among the documents that can be used to verify the individual's authorization to work in the U.S., as discussed in 8 U.S.C. 1324a(b)(1), is the SSN card ''(other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).'' Thus, the SSN and SSN card have a major role in the current process for verification of an employee's authorization to work in the U.S. Further, 8 U.S.C. 1324a(d) allows the President to consider the suitability of existing Federal identification systems for use in determining employment authorization and to undertake demonstration projects, such as the pilot project described above, that test the usefulness of such systems for improving employment verification. SSA's Enumeration System is such a Federal identification system. This statutory authority has been invoked with respect to the pilot project described above. Consequently, with respect to the pilot project, 8 U.S.C. 1324a(d) establishes employment authorization verification as one of the purposes for which SSA collects and maintains information in its Enumeration System. Use of that information by employers participating in that pilot project to verify authorization to work in the U.S. clearly serves that purpose.

In addition, sections 205(c)(2) and 208(a)(7) and (8) of the Social Security Act (the Act) also support a finding of compatibility. Under section 205(c)(2)(A) of the Act, SSA is required to establish and maintain records of the amounts of wages paid to individuals and of the periods in which such wages were paid. In performing these duties, SSA is required by section 205(c)(2)(B)(i)(I) of the Act to arrange for the issuance of SSNs to certain groups, including aliens lawfully admitted to the U.S. for permanent residence or under other authority to work in the U.S. Section 205(c)(2)(B)(ii) of the Act provides that SSA must require all applicants for SSNs to furnish evidence to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) SSN has previously been assigned to such individual. This provision was enacted to address, among other things, concerns about use of SSNs by aliens entering the U.S. illegally and work in the U.S. by aliens who are not authorized to do so. Further, section 208(a)(7)(B) and (a)(8) of the Act provides that any individual who, with intent to deceive for any purpose, falsely represents that a particular SSN was assigned to him or her when it was not so assigned, or uses the SSN of any person in violation of the laws of the U.S., is guilty of a felony.

Some of the statutorily authorized purposes for which SSA collects and uses information maintained in the Enumeration System are: (1) To keep accurate records of earnings as required by section 205(c)(2)(A) of the Act; (2) to detect instances in which an individual uses an SSN that has not been assigned to him or her; (3) to prevent the issuance of an SSN to an individual who has not furnished evidence that he or she is lawfully admitted to the U.S.; and (4) to deter and detect work in the U.S. that is not authorized by law.

The services we would provide to employers under the pilot project would assist them in reporting accurate wages to SSA and would help prevent and deter individuals from engaging in criminal activity described in section 208(a)(7) and (8) of the Act and unauthorized work in the U.S. Thus, the services that SSA would render to employers who would participate in the proposed pilot would serve some of the same purposes for which SSA collects and maintains the SSN and citizenship/alien status information in the Enumeration System.

In furnishing the services described above to employers who participate in the employment authorization pilot, SSA would perform functions for which it is responsible under Federal law, 8 U.S.C. 1324a(d). This activity would be necessary to carry out a Social Security program, as defined in 20 CFR 401.110, and would be consistent with SSA's disclosure regulation, 20 CFR 401.310. The regulation (20 CFR 401.310) provides, in part, that we will disclose information under a routine use ''where necessary to carry out Social Security programs.'' For purposes of that regulation, ''Social Security program'' is defined as ''any program or provision of law which SSA is responsible for administering * * *'' 20 CFR 401.110.

C. Effect of the Proposal on Individual Rights

The pilot is designed to assist employers in identifying employees who are not authorized to work in the U.S. When operating the pilot, SSA and INS will apply appropriate measures to ensure that the privacy rights of employees whose SSNs are verified under the pilot are protected to the full extent of the Privacy Act and all other applicable laws. SSA and INS will negotiate a written agreement with each participating employer that delineates the employer's responsibilities and states the safeguards the employer must apply to protect the privacy of information received from SSA and/or INS. Individuals will have the opportunity to reconcile any discrepancies between the information they furnish to their employers and the records of SSA before their employers can take any adverse action based on those discrepancies. Because employers participating in the pilot must confirm that all new hires are authorized to work, these disclosures should serve to lessen the incidence of discrimination against people who look or sound foreign. Also, we will keep a detailed

audit trail record of all disclosures made under the pilot. For these reasons, we do not anticipate that the disclosures will have any unwarranted adverse effect on the rights of individuals.

Dated: June 4, 1996.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 96–15265 Filed 6–14–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Inter-American Affairs

[Public Notice 2403]

Guidelines Implementing Title IV of the Cuban Liberty and Democratic Solidarity Act

AGENCY: Bureau of Inter-American Affairs.

ACTION: Notice.

SUMMARY: Title IV, section 401(a), of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (''Act''), 22 U.S.C. 6021 *et seq.*, also known as the Helms-Burton Act, provides that the ''Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this act—

(1) Has confiscated, or has directed or overseen the confiscation of, property [in Cuba] a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) Traffics in confiscated property, a claim to which is owned by a United States national;

(3) Is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) Is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).'' 22 U.S.C. 6091(a).

The following guidelines will be used by the Department of State for the purpose of implementing Title IV of the act.

EFFECTIVE DATE: This notice is effective on June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Director, Office of Cuban Affairs, Bureau of Inter-American Affairs, Department of State, 2201 C Street, NW, Washington, D.C. 20520, 202–647–7505.

SUPPLEMENTARY INFORMATION:

Department of State Guidelines for Implementation of Title IV of the LIBERTAD Act

1. Purpose and Authority. These guidelines will be used by the Department of State (''Department'') for the purpose of implementing Title IV of the Cuban Liberty and Democratic Solidarity Act of 1996, P.L. 104–114, 22 U.S.C. § 6021 *et seq.*, also known as the Libertad Act or Helms-Burton Act (''Act''), and other applicable legislation as appropriate.

2. Delegation of Authority. The Secretary of State has delegated authority to the Assistant Secretary of State for Inter-American Affairs to make determinations of excludability and visa ineligibility under section 401(a) of the Act.

3. Point of Contact. The Office of Cuban Affairs in the Bureau of Inter-American Affairs at the Department is the central point of contact for all inquiries about implementation of Title IV of the Act. The Office may be contacted in Room No. 3244, U.S. Department of State, Washington, DC 20520; telephone number 202–647–7505.

4. Collection of Information—a. As resources permit, the Department may collect information from available sources on whether property in Cuba owned by a U.S. national has been confiscated or whether trafficking in such property confiscated from a U.S. national has occurred.

b. If the Department has information indicating that certain property may have been confiscated or subject to trafficking, it may request the Foreign Claims Settlement Commission (FCSC) to inform it whether the property in question was the subject of an FCSC-certified claim. the Department may also obtain information from the FCSC and other available sources about the current ownership of an FCSC-certified claim, including whether it is owned by a U.S. national.

c. For non-certified claims, the Department may request claimants to provide additional information related to ownership and confiscation of, or trafficking in, the property concerned.

d. The department will consult as appropriate with other agencies of the U.S. government and other sources regarding the identify of principals, officers, and controlling shareholders, and their agents, spouses, and minor children, or entities that may have confiscated property owned by a U.S. national or trafficked in such property.

5. Determinations of excludability and Ineligibility. Determinations of ineligibility and excludability under Title IV will be made when facts or circumstances exist that would lead the Department reasonably to conclude that a person has engaged in confiscation or trafficking after March 12, 1996.

6. Prior Notification.—a. An alien who may be the subject of a determination under Title IV will be sent notification by registered mail that his/her name will be entered in the visa lookout system and port of entry exclusion system, and that he/she will be denied a visa upon application or have his/her visa revoked, 45 days after the date of the notification letter. the alien will be informed that divesting from a ''trafficking'' arrangement would avert the exclusion. the Department may inform the government of the alien's country of nationality in confidence through diplomatic channels of the name of any corporation or other entity related to this action.

b. If no information is received within the 45 day period above that leads the Department reasonably to conclude (i) that the alien or company involved has not engaged in trafficking or is no longer doing so, or (ii) that an exception to trafficking under section 401(b)(2)(B) applies, the Department will notify consular officers and the Immigration and Naturalization Service (''INS'') of a determination by entering the alien's name, including the names of the alien's agents, spouse and minor children, if applicable, in the appropriate lookout system, and a visa application from the named alien will be denied or a visa revoked in accordance with the law. Entry of the named alien into the appropriate lookout systems will be the exclusive means by which consular officers and the INS will verify that the alien has been determined to be excludable under section 401 of the Act.

7. Exemptions. The Department may grant an exemption for diplomatic and consular personnel of foreign governments, and representatives to and officials of international organizations. An alien may request from the Department an exemption for medical reasons or for purposes of litigation of an action under Title III of the Act to the extent permitted under section 401(c) of the Act. The Department will notify Department consular officers and the INS through appropriate channels of the decision to grant an exemption to a person otherwise excludable under Title IV of the Act. The Department may impose appropriate conditions on any exemption granted.

8. Review of Determinations. The Department may review a determination made under Title IV at any time, as appropriate, upon the receipt of

information indicating that the determination was in error, that a person has ended all involvement with confiscated U.S. property in Cuba, that an exception applies under section 401(b)(2)(B), or that an exemption should be granted under section 401(c).

9. Definitions.—a. ''Agent'' means a person who acts on behalf of a corporate officer, principal, or shareholder with a controlling interest to carry out or facilitate acts or policies that result in a determination under section 401(a) of the Act.

b. ''Confiscate'' means the same as the term defined in section 401(b)(1) of the Act.

c. ''Corporate officer'' means the president, chief executive officer, principal financial officer, principal accounting officer (or, if there is not accounting officer, the controller), any vice president of the entity in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer or person who performs policy-making functions for the entity. Corporate officers of a parent or subsidiary of the entity may be deemed corporate officers of the entity if they perform policy-making functions for the entity. (This definition is derived from, and will in general be applied consistent with, the definition of ''officer'' in 17 CFR § 240.16a–1(f)).

d. ''Minor child'' means a person who is under 18 years of age and who is a child as defined in 8 U.S.C. § 1101(b)(1).

e. ''Person'' means the same as the term defined in section 4(11) of the Act.

f. ''Principal'' means: (i) When the entity is a general partnership, any general partner and any officer or employee of the general partnership who performs a policy-making function for the partnership, (ii) when the entity is a limited partnership, any general partner and any officer or employee of a general partner of the limited partnership who performs a policy-making function for the limited partnership, (iii) when the entity is a trust, any trustee and any officer or employee of the trustee who performs a policy-making function for the trust, and (iv) any other person who performs similar policy-making functions for the entity. (This definition is derived from, and will in general be applied consistent with, the definition of ''officer'' in 17 CFR § 240.16a–1(f).)

g. ''Shareholder with a controlling interest'' means a person possessing the power, directly or indirectly, to direct or cause the direction of the management and policies of the entity through the ownership of voting securities. (This definition is derived from, and will in general be applied consistent with, the definition of ''control'' in 17 CFR § 230.405.)

h. ''Traffics'' means the same as the term defined in section 401(b)(2) of the Act.

i. ''Transactions and uses of property incident to lawful travel in Cuba'' are such incidental transactions and uses of confiscated property as are necessary to the conduct of lawful travel to Cuba.

10. Persons with Business Dealings with Persons Subject to a Determination. It is not sufficient in itself for a determination under section 401(a) that a person has merely had business dealings with a person for whom a determination is made under section 401(a).

11. Confidentiality of Records. Department records pertaining to the issuance or denial of a visa under section 401(a), including records related to the determination of ineligibility or excludability, are confidential consistent with section 222(f) of the Immigration and Nationality Act, 8 U.S.C. 1202(f).

12. No Right of Action. Nothing in these guidelines will create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or its employees, or any other person.

13. Publication and Revision of these Guidelines. These guidelines will be published in the Federal Register, and will become effective upon publication. Revisions may be made as appropriate and published in the Federal Register.

Dated: June 12, 1996.

Jeffrey Davidow,

Acting Assistant Secretary of State for Inter-American Affairs, Department of State.

[FR Doc. 96–15406 Filed 6–14–96; 8:45 am]

BILLING CODE 4710–29–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

[Meeting No. 1485]

TIME AND DATE: 10 a.m. (EDT), June 19, 1996.

PLACE: TVA Chattanooga Office Complex Auditorium, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on May 15, 1996.

New Business

E—Real Property Transactions

E1. Transfer of custody of the Edgemont Uranium Mill Tailings Disposal Site to the Department of Energy.

E2. Grant of permanent easement to Tishomingo County, Mississippi, affecting approximately 6 acres of land on Pickwick Lake in Tishomingo County for a road and utilities right-of-way (Tract No. XTYECR–9H).

E3. Sale of 30-year easement to Power Paper Company, Inc., for a natural gas pipeline affecting approximately 3.5 acres of land on Watts Bar Lake in Roane County, Tennessee (Tract No XWBR–713P).

E4. Sale of 40-year commercial recreation easement to Watts Bar Resort Company affecting approximately 162 acres of land on Watts Bar Lake in Rhea County, Tennessee (Tract No. XWBR–710RE).

E5. Grant of permanent easements to the City of Fort Payne, Alabama, affecting approximately 9.65 acres of land on Guntersville Lake in Jackson County, Alabama, for a raw water pump station and water line (Tract No. XTGR–162E).

E6. Abandonment of easement rights over a portion of the Pulaski-Fayetteville Transmission Line affecting approximately 5.95 acres in Lincoln County, Tennessee (a portion of Tract No. PF–59 and all of Tract No. PF–80).

Unclassified

F1. Filing of condemnation cases.

Information Items

1. Abandonment of easement rights affecting approximately 0.7 acre of the Norris-Knoxville Transmission Line right-of-way in Anderson County, Tennessee (Tract No. NV–19).

2. Grant of easement to Bluegrass Network LLC affecting approximately 0.03 acre of the Bowling Green Customer Service Center property in Warren County, Kentucky, for construction, operation, and maintenance of a fiber optic cable (Tract No. XBKPSC–3UC).

3. Drive-home vehicle program for TVA Police Officers.

4. Delegation of authority to the Vice President of Fuel Supply and Engineering to enter into agreements with the Southern Pacific Rail Corporation (and certain of its affected subsidiaries) to modify existing Contract Nos. ICC–SP–C–15118 and ICC–SP–C–15119 and to resolve outstanding claims.

5. Extension of the current Low Density Credit Program.

6. Award of contract to Alcoa Fujikura, Ltd., for fiber optic cable and to further the arrangement with Worldcom Network Services, Inc., to construct a fiber optic system from Memphis to Nashville, with an optional segment from Nashville to East Tennessee.

7. Filing of condemnation cases.

8. Sale of permanent easement to CSX Transportation, Inc., for railroad and other transportation purposes affecting approximately 45.5 acres of Widows Creek Fossil Plant Interchange Yard, Jackson County, Alabama (Tract No. XCSPA–47RR).

For more information: Please call TVA Public Relations at (423) 632–6000,

Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: June 12, 1996.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 96–15380 Filed 6–13–96; 10:22 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Jefferson County Airport, Beaumont, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Jefferson County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before July 17, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Byron L. Broussard, Manager of Jefferson County Airport, at the following address: Mr. Bryon L. Broussard, Jefferson County Airport, 2748 Viterbo Road, Box 9, Beaumont, Texas 77706.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Jefferson County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 29, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 24, 1996.

The following is a brief overview of the application:

Level of PFC: $3.00.

Charge effective date: September 1, 1994.

Proposed charge expiration date: March 1, 1999.

Total estimated PFC revenue: $529,000.

PFC application number: 96–02–C–00–BPT.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

ARFF Vehicle Replacement,

Improve Runway 12 Safety Area, and

PFC Application and Administrative Costs.

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Jefferson County Airport.

Issued in Fort Worth, Texas, on May 29, 1996.

Edward N. Agnew,

Acting Manager, Airports Division.

[FR Doc. 96–15211 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. 96–43; Notice 1]

International Regulatory Harmonization, Motor Vehicle Safety; Motor Vehicles and Motor Vehicle Engines and the Environment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT; Environmental Protection Agency (EPA).

ACTION: Notice of public meetings and request for comments.

SUMMARY: This document announces two public meetings to seek comments from a broad spectrum of participants on recommendations by the U.S. and European automotive industry for actions by the U.S. and European Union governments concerning international harmonization of motor vehicle safety and environmental regulation, the intergovernmental regulatory process necessary to achieve such harmonization, and coordination of vehicle safety and environmental research. The industry recommendations were made at the Transatlantic Automotive Industry Conference on International Regulatory Harmonization, held in Washington, DC, on April 10–11, 1996. The comments will assist NHTSA and EPA both in deciding how to respond to those recommendations as well as in ensuring that harmonization does not result in any degradation of safety or environmental protection in the United States.

DATES: *Public meetings:* The meetings will be held July 10 and 11, 1996. The safety and regulatory process meeting will start at 9 a.m. on July 10 and may extend over to July 11, starting at 9 a.m. The environmental meeting will start at 10 a.m. on July 11.

Oral statements and written comments:

Safety and regulatory process issues: Persons or organizations desiring to make oral statements at the safety and regulatory process meeting should advise the NHTSA contact person listed below of their intent by July 5, 1996. Copies of the oral statements, or an

outline thereof, should be submitted to the NHTSA contact person not later than July 8, 1996. All written comments should be received by NHTSA's docket section no later than July 25, 1996.

Environmental issues: Persons or organizations desiring to make oral statements at the environmental meeting should advise the EPA contact person listed below of their intent by July 5, 1996. Copies of the oral statements, or an outline thereof, should be submitted to the EPA contact person not later than July 8, 1996. All written comments should be received by NHTSA's docket section no later than July 25, 1996.

ADDRESSES: *Public meetings:* Both meetings will be held in Room 2230 of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

Written comments: Written comments on all issues should refer to the docket and notice number shown above and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5111, 400 Seventh Street, SW., Washington, DC 20590. Docket room hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

To facilitate the distribution and reading of comments relating to a particular issue area, commenters are requested to divide their written comments into two different sections: (1) Safety and regulatory process, and (2) environment.

Written copies of oral statements:

Safety and regulatory process issues: Written copies of oral statements should be provided to the NHTSA contact person at the address below.

Environmental issues: Written copies of oral statements should be provided to the EPA contact person at the address below.

FOR FURTHER INFORMATION CONTACT:

NHTSA: Stanley C. Feldman, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5219, Washington, DC 20590, telephone (202) 366–5265, fax (202) 366–3820.

EPA: Kenneth E. Feith, Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone (202) 260–4996, fax (202) 260–9766.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Transatlantic Business Dialogue Meeting in Seville, Spain

In November 1995, the Transatlantic Business Dialogue (TABD), a forum comprised of U.S. and European industry leaders, met in Seville, Spain, to begin a process for achieving increased bilateral regulatory and economic cooperation in key industrial sectors. The forum was organized at the initiatives of the late U.S. Department of Commerce Secretary Ron Brown, the European Union (EU) Trade Commissioner Sir Leon Brittan and the EU Industry Commissioner Martin Bangemann. Its initial purpose was to generate recommendations for consideration at the U.S.–EU Summit in Madrid, Spain, one month later. The TABD issued recommendations concerning regulatory policy, trade liberalization, investment and cooperation with developing countries. Among its regulatory recommendations were the issuance of common standards of design, performance and/or controls in a number of industry sectors, including the motor vehicle industry.

II. U.S.-EU Summit in Madrid, Spain

Many of the TABD recommendations were endorsed at the Madrid Summit in December 1995 by President Clinton, European Commission (EC) President Jacques Santer, and Spanish Prime Minister Felipe Gonzalez (President of the European Union Council of Ministers). Those recommendations are codified in a ''Transatlantic Agenda'' and ''Action Plan'' signed by President Clinton and the European Union officials for the purpose of creating a ''New Transatlantic Marketplace.'' The Action Plan includes a call for regulatory harmonization; mutually recognizing regulatory certification procedures; cooperating in the international standard setting process; cooperatively developing and implementing regulations; and taking a collaborative approach in testing and certification procedures.

As Secretary Brown noted, the Transatlantic Agenda and Action Plan were intended to continue the momentum for trade liberalization from the Uruguay Round of Multilateral Trade Negotiations and ''instill a new dynamic'' to the efforts of the World Trade Organization (WTO). The WTO Agreement on Technical Barriers to Trade includes requirements for—

- Using international standards and conformity assessment procedures as a basis for national regulations and procedures, unless the international standards and procedures would be ineffective or inappropriate. (Articles 2.4 and 5.4)
- Participating in the preparation by international standardizing bodies of international standards, with a view towards harmonizing regulations. (Article 2.6)
- Giving consideration to accepting as equivalent technical regulations of other WTO members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfill the objectives of their own regulations. (Article 2.7)

III. Transatlantic Automotive Industry Conference on International Regulatory Harmonization in Washington, DC

At the prompting of some participants in the Seville Conference and Madrid Summit, a broad cross-section of industry representatives, including the American Automobile Manufacturers Association (AAMA), the Association of European Automobile Manufacturers (ACEA), the Engine Manufacturers Association (EMA), automotive suppliers, and their respective associations met at the Transatlantic Automotive Industry Conference on International Regulatory Harmonization in Washington, DC, on April 10–11, 1996. Representatives from NHTSA, EPA, U.S. Department of Commerce, Office of the U. S. Trade Representative, agencies of various European countries, and the European Commission's Directorate-General III—Industry, participated in the Conference as advisors to the industry participants to facilitate understanding of government objectives, priorities, and regulatory process.

A. Industry Principles and Recommendations

At the conclusion of the Washington Conference, the industry conferees issued ''Overall Conclusions'' and ''Working Papers on the Regulatory Process, Safety and Environment.'' (Copies of these documents have been

placed in the docket for this notice.) These documents contain industry recommendations for actions by the U.S. and EU in three specific areas: (1) Regulatory process; (2) safety; and (3) the environment. They also set forth principles to guide those recommended actions.

With respect to the need for harmonization, the industry conferees concluded in Section I of the Working Papers (p. 4) that:

> Compliance with diverse national and regional requirements imposes substantial cost penalties, engineering, design and manufacturing constraints, as well as being fundamentally inconsistent with the reality of a global auto market, and have therefore adversely affected world trade. These inconsistencies in turn, diminish the potential to achieve societal objectives, notably in the field of safety and environment, and also reduce vehicle affordability and customer choice. With the rapid development of new markets in developing nations, there is a great risk that the number of new and differing regulatory requirements world wide will escalate quickly, creating new technical barriers to trade.
>
> European and U.S. automakers believe that this strategically uncoordinated approach no longer is sustainable either in terms of resources or results. It must be emphasized that industry is still committed to abide to the high levels of safety and environmental protection offered by today's standards. Yet it seems difficult to comprehend the need for multiple differing approaches to address the same objectives.

To guide future harmonization discussions and efforts involving U.S. and EU governments and industry, the industry conferees set forth the following set of principles representing their thinking on the subject in Section II of the Working Papers (p. 6):

Ten First Principles for EU/US Contribution to Global Harmonization

1. Commit to global regulatory harmonization by becoming Contracting Parties to the 1958 Agreement [1] and participating in the development of new UN–ECE regulations with the intent of adopting them to the maximum extent feasible.[2]

2. Work through and strengthen Working Party 29 to expand it into a broadly recognized body for the development of global vehicle [3] regulatory requirements.

3. Establish a work program to globally harmonize existing differences, to the maximum feasible extent.

4. Continue the process of global harmonization of vehicle regulatory requirements and expand these discussions to all countries.

5. Establish mutual recognized certification processes.

6. In the process of global harmonization: establish means to incorporate functional equivalence of alternative vehicle regulatory requirements in the regulatory process; and establish means to achieve mutual recognition of corresponding regulatory requirements.

7. Coordinate pre-regulatory research on need for and development of new regulatory requirements, thereby minimizing the likelihood of future divergence.

8. Avoid developing unique new national or regional technical requirements without adequate justification.[4]

9. Improve processes for informing the public about the development of harmonized regulatory requirements.

10. Encourage a policy of accepting vehicles fully meeting ECE or U.S. or EU requirements as equivalent. (EU, Australia, Canada, Japan and South Africa have already accepted UN–ECE regulations.) The adoption of hybrid requirements for vehicles (selectively combining elements of different jurisdictions) should be avoided.

The industry conferees made the following recommendations regarding regulatory process, safety, and the environment (except as otherwise noted, the recommendations are contained in their ''Overall Conclusions):''

Regulatory Process

The industry conferees recommended that the following actions be taken by the U.S. and EU prior to the November 1996 TABD meeting:

- Develop a process for agreeing upon ''functional equivalence'' of dissimilar existing standards addressing the same aspect of performance;
- Develop a process for mutual recognition of (1) similar standards addressing the same aspect of performance and (2) certification procedures;
- Develop a plan for coordinating research, both by industry and government; and
- Revise the role and structure of the UN Economic Commission for Europe (ECE) Working Party 29 so that it can function as the forum for global regulatory harmonization.

The industry conferees recommended that a second series of longer-term regulatory process actions be initiated in November 1996, including:

- Cooperation in developing new testing procedures and regulations; and
- Coordination of views on emerging market regulations.

Safety

The industry conferees agreed that they would complete, by the time of the November 1996 TABD meeting, an evaluation of the functional equivalence of existing overlapping requirements, in conjunction with the appropriate regulatory bodies. In addition, the industry recommended the following four actions by the U.S. and EU:

- Initiate a process to develop cooperative programs in the areas of common regulatory matters and regulatory research programs prior to the 15th International Technical Conference on the Enhanced Safety of Vehicles (ESV) conference in May 1996.
- Mutually recognize certain items currently regulated by the U.S. and EU. These include, but are not limited to, windshield wiping systems, safety belts, steering control system impact protection, and seating systems. (The industry conferees suggested that this action be completed by November 1997.)
- Mutual recognition of functional equivalence for those requirements that mandate unique equipment design or performance but do not provide meaningful differences in motor vehicle safety. As explained by the industry conferees in Section IV of the Working Papers (p. 28): ''mutual recognition is the process whereby two or more countries/regions recognize each other's regulatory requirements on a specific subject as satisfying the requirements of both/all parties.'' (The industry conferees suggested that this action be completed by November 1997.)
- Consideration of harmonizing other items including, theft protection systems, controls and displays, crash protection, bumper systems, and fuel system integrity.

Additional discussion and recommendations about safety were included in Section IV of the Working Papers (p. 31). Among them were:

- By June 1996, initiate a process to establish collaborative development and

[1] United Nations Economic Commission for Europe Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals granted on the Basis of these Prescriptions (as amended). (For a brief explanation of this Agreement, whose membership is currently primarily European, see the section IV.A.3. ''UN/ECE 1958 Agreement'' below.)

[2] NHTSA has indicated that the U.S. government is willing to sign the Agreement if it is revised so that the forum functions in a truly international manner and adopts truly international standards. Discussions are ongoing. (For additional details, see sections III.B. ''U.S. Government Statements'' and IV.A.3. ''UN/ECE 1958 Agreement'' below.)

[3] Vehicle is defined as including equipment and parts.

[4] As defined in WTO, Articles 2.1–2.5.

exchange of NHTSA–EU regulatory agendas.

• By October 1996, complete bilateral agreement for periodic (at least semi-annual) NHTSA–EU meetings pre-regulatory matters and pre-regulatory research. Such meetings should allow for industry participation.

With respect to international research projects to support regulatory harmonization, the industry conferees suggested the following in Section IV of the Working Papers (p. 49):

• Develop a project to identify technical and performance differences between selected existing Federal motor vehicle safety standards and ECE/EU regulatory requirements on the same aspects of motor vehicle systems, and determine the significance of the performance differences with respect to motor vehicle safety performance.

• Develop a project to determine traffic targets and maneuvers that need to be seen and recognized that could form the basis for a performance based common regulation on vehicle lighting.

• Develop a project for the next generation of side impact testing, including dummy development and injury tolerance criteria.

• Develop a project for globally acceptable frontal impact configuration.

• Develop a project for a globally acceptable child dummy for child restraint testing.

• Develop a project to determine the cause of injuries resulting from rear impacts that could form the basis for a performance based common regulation on seat strength and head restraint design.

• Develop a project to define a common procedure for gathering accident data and uniform analysis.

• Coordinate global research on glazing performance requirements.

• Math model development and validation.

Environment

The industry conferees recommended that the following actions be taken in two phases. First, they recommended that the U.S. and EU take the following actions before November 1996:

• Prepare work plans to harmonize noise, electromagnetic compatibility, and smoke test procedures; and

• Seek to establish formal cooperation on the recognition of the principle of functional equivalence of regulations, streamlining of the certification processes, fuel harmonization, and harmonization of heavy duty requirements.

Second, they recommended that the following actions be taken beginning in November 1996:

• Conduct cooperative pre-regulatory research leading to regulatory harmonization.

• Cooperate in developing markets to eliminate use of ozone-depleting substances and leaded fuels, and adopt consistent control policies.

B. U.S. Government Statements

NHTSA

NHTSA Administrator Ricardo Martinez, M.D., told the conferees that the agency is sympathetic to working toward the goal of harmonization of existing and future motor vehicle safety standards, subject to the following conditions—

• Assuring that there is no degradation of motor vehicle safety.

• Preserving the quality and transparency of NHTSA's regulatory process by inviting all interested parties to be heard and duly considered, including the general public. In furtherance of this objective, Dr. Martinez announced plans for an outreach meeting to ensure that consumer and public interest organizations and other members of the public not present at the Conference would have the opportunity to state their views.

• Preserving NHTSA's ability to respond, through future rulemaking, to changing motor vehicle safety technology and problems.

Dr. Martinez also indicated that the agency strongly supports the coordination of international vehicle safety research. Given that the human body and mechanics by which trauma occurs in vehicle crashes follow the universal laws of science, Dr. Martinez stressed the importance of seeking common or complementary research approaches by all interested countries, and noted that the recent 15th ESV Conference would provide an opportunity to begin that effort.

Finally, Dr. Martinez stated that the U.S. intends to sign the UN/ECE 1958 Agreement *once* the structure and activities of the Agreement's forum, the Working Party on the Construction of Vehicles (WP29), are revised to ensure that the WP29 forum's primary focus will be the development of truly international regulations. Among the changes necessary are those ensuring that—

• The major vehicle producing countries and/or regions have an appropriate voice in setting and implementing priorities;

• Equal and transparent consideration is given to all relevant existing national regulations in establishing international regulations; and

• Only those regulations supported by careful analysis and good science are established as international regulations.

U. S. Environmental Protection Agency

The EPA Chief of Staff Peter Robertson, representing Administrator Browner, stated that the EPA is committed to strengthening multilateral efforts to protect the global environment and to develop environmental policy strategies for sustainable world-wide growth with particular attention to air pollution issues.

Mr. Robertson noted that since 1970, the U. S. Clean Air Act has dramatically reduced air pollution. Of particular note is—

• The 98 percent reduction of lead emissions that are known to cause infant mortality, reduced birth weights and childhood IQ loss. These pollution reductions occurred largely because of the phase-out of lead in gasoline, and controls on industrial lead sources.

• The significant reductions in other fuel combustion related pollutants such as nitrogen dioxide (NO_X), known to cause lung tissue damage and increased respiratory illness; sulfur dioxide (SO_2), known to cause increased respiratory illness, especially in asthmatics, and to be a major contributor to acid rain; and carbon monoxide (CO), known to cause reduced circulation and heart damage. EPA believes the global community can realize similar benefits.

Mr. Robertson commended the automotive industries' recognition that fuel quality plays a key role, not only in vehicle performance, but also in vehicle pollution. Clearly, significant global reductions in vehicle exhaust emissions will depend on the use of catalytic converter technology. EPA therefore supported industries' recommendations for the global phase-out of leaded gasoline and the harmonization of improved fuel quality, and expressed hope that their efforts would be expanded to promote clean alternative fuels for vehicles.

EPA agrees with the industry assessment that more should be done to eliminate both the use and production of ozone-depleting substances, particularly in developing countries.

The U.S. phase-out of CFC's and other ozone-depleting substances, in combination with international restrictions, has already produced improvements in the upper atmosphere's ozone layer. The automotive industry has played a significant role in fostering the development of alternatives to ozone-depleting substances through its influence in the market place. EPA encourages the U.S. automotive

industries to continue their efforts to develop products and manufacturing processes that are free of ozone-depleting substances.

EPA recognizes that harmonization of regulatory test protocols, conformity assessments and, where possible, environmental standards are several of the key elements in the equation for uniform global regulations. Absent efforts to effect a level of harmonization between divergent national regulations, one may anticipate the expenditure of valuable resources, both national and private, to address resultant trade issues. EPA has committed—

- To continue to actively pursue and support the concept of ''technical harmonization'' in its development of product performance standards and regulations. To this end, comments and recommendations are solicited from all interested parties as to how EPA might improve public participation in its rulemaking activities.
- To continue to exercise care in assessing potential adverse impacts that a specific harmonization action may have on current or future environmental goals.
- As a matter of policy, not to undertake the harmonization of environmental standards or regulations if such harmonization will result in decreased environmental benefits.
- To participate, to the extent possible, in any harmonization activity that contributes to improving the global environment.
- To give careful consideration to policies on trade and the environment that are mutually supportive, thus satisfying both environmental as well as trade objectives.

EPA believes that, in order for the U.S. to become a contracting party to the UN/ECE 1958 Agreement, the Agreement should be revised to incorporate the following principles—

- Open membership.
- Transparent proceedings.
- Equitable voting structure.
- Consideration of relevant national regulations in the development of global regulations.

Department of Commerce

Under Secretary of Commerce for International Trade Stuart Eizenstat identified some of the parameters of harmonization efforts. He emphasized the importance of continuing dialogue and stated that the aim of such efforts should be harmonizing differing standards, without lowering them to achieve unity. Further, he stressed that harmonization should be pursued on a bilateral basis between the U.S. and EU before multilateralizing it to include other countries.

IV. Public Meetings

Before NHTSA and EPA decide how to respond to the recommendations by the industry conferees, they want to obtain the views of a broad spectrum of the public regarding the manner in which their regulatory harmonization efforts should proceed. Among the groups not present at the Washington Conference were motor vehicle equipment manufacturers, motor vehicle insurance companies, consumer interest groups, the medical community, state and local officials, and the public. The agencies wish to obtain the views of all interested parties, including individual motor vehicle manufacturers.

To provide a focus for the public comments, this document briefly discusses the broad subject areas and then sets forth a series of questions and issues that the agencies would like the public to address. The agencies believe that while there are problems and risks associated with harmonization, properly conducted efforts to harmonize vehicle research and regulation have the potential for enabling the vehicle regulatory agencies around the world to regulate ''smarter and cheaper,'' while increasing levels of safety and environmental protection.

A. Discussion of Safety and Process Issues

1. Harmonized Research

NHTSA has advanced the concept of a harmonized research agenda since the 1970's. The agency made several efforts in the late 1970's and early 1980's to develop a harmonized test procedure for measuring side impact performance. However, the rapidly changing regulatory priorities during that period on both sides of the Atlantic precluded the achievement of harmonized requirements for side impact protection.

The globalization of the motor vehicle industry and the budgetary constraints imposed on all government activities are leading regulatory agencies to cooperate in developing the supporting technical basis for new regulations and significant amendments to existing regulations. NHTSA's renewed push for harmonized research began in February 1995 when the agency issued a letter proposing the possibility of using the recent 15th ESV Conference to reach agreement on a globally harmonized research agenda. Dr. Martinez followed that initiative by presenting a multi-point plan for harmonized research at the 107th meeting of WP29 in November 1995. On a parallel track, the vehicle industry recommended at the TABD conference in Spain and the follow-up conference in Washington that serious effort be made to achieving a harmonized pre-regulatory research agenda.

These combined efforts culminated at the 15th ESV Conference in May 1996 in an agreement on a globally harmonized research agenda that draws upon government and industry expertise around the world in vehicle safety issues. Agreement on a harmonized research agenda should enable the vehicle safety regulatory agencies around the world to develop future regulations in a harmonized fashion, reduce duplicative research and thus obtain more information for the same expenditure, and address the most pressing safety problems on a consistent, world wide basis. As a result, the participating countries will be able to minimize the differences between countries in regulatory requirements without lowering safety or environmental protection, thus providing economies of scale in the manufacturing arena and reducing costs for the consumer.

The agreement identifies 6 research priorities and designates a lead country or organization for each—

- *Biomechanics*—(U.S.) Efforts will be made to develop injury measurement surrogates for the head, neck, face, thorax, and lower limbs and to develop test procedures for all crash modes. The fact that these parts of the human anatomy do not differ from continent to continent is a powerful argument for cooperative effort in the development of such surrogates.
- *Functional equivalence*—(U.S./Australia) The U.S., in cooperation with Australia, will seek to develop the technical and scientific aspects of an acceptable model for determining the functional equivalence of existing regulatory requirements.
- *Advanced Offset Frontal Crash Protection*—(EC/European Experimental Vehicle Committee (EEVC)) Europe has been working for some time to develop and establish a frontal crash protection regulation and has chosen the route of an offset crash test as the means of achieving improved frontal protection. The U.S. has been cooperating in that development because it is concerned about the high number of fatalities that occur in frontal crashes that are not being mitigated by the existing frontal protection regulation. Thus, the development of harmonized test procedures based on real world crashes to assess safety performance and compatibility for offset frontal crashes should serve as a common basis for

further development of frontal crash protection regulations.

• *Vehicle Compatibility*—(EC/EEVC) This issue will be explored in two stages: car-to-car compatibility; and then car-to-truck compatibility. Recent and upcoming changes to vehicle structures and restraint systems in response to requirements for frontal and side impact protection will increase the importance of questions about the compatibility of small and large light vehicles.

• *Pedestrian Safety*—(Japan) Pedestrian fatality and injury levels are a serious safety problem worldwide. Thus, efforts will be made to develop a harmonized test procedure based on real world crashes to assess the safety performance of passenger vehicles in their interaction with pedestrians. The results should form the basis for a harmonized approach to regulations applicable worldwide.

Intelligent Transportation Systems—(Canada) This effort will be aimed at developing test procedures to assess driver/vehicle interaction of crash avoidance and driver enhancement in-vehicle systems. Although the systems may be different in different parts of the world, the standards measuring their crash avoidance and driver enhancement performance should be common to all.

Although the schedule varies for the 6 priority areas, all are intended to be pursued urgently. None of the priority activities are to take more than 5 years. Some, including the functional equivalence effort, are on a much faster track.

To ensure steady progress and adherence to schedule, follow-up meetings will be held on a roughly semi-annual basis. An implementation review meeting will be held in conjunction with, but not as part of, the November 1996 meeting of WP29. International meetings of the Society of Automotive Engineers and various international forums as well as future ESV meetings will also be used to report on progress in implementing the research plans developed by the lead countries and organizations.

2. Mutual Recognition

The industry conferees recommended the development of a process for ''mutual recognition'' of regulatory requirements and certification procedures. They stated that it is an essential feature of the harmonization process that products complying to a harmonized requirement are accepted, or ''mutually recognized,'' by all countries that are party to the harmonization agreement. Mutual recognition is a process, based largely on an assessment of ''functional equivalence'' of comparable regulatory requirements, under which two or more countries or regions recognize each other's regulatory requirements on a specific subject as satisfying each other's policy objectives.

The industry conferees concluded that once a process for mutual recognition is developed, it should then be applied, by November 1997, to certain items currently regulated by both the U.S. and EU. These items include, but are not limited to, windshield wiping systems, safety belts, steering control system impact protection, and seating systems. The industry conferees also concluded that mutual recognition should be accorded, by November 1997, to functionally equivalent requirements that mandate unique equipment design or performance but do not provide meaningful differences in motor vehicle safety.

a. *Functional Equivalence of Regulatory Requirements.* The industry conferees in Washington recommended the development of a process for agreeing upon functional equivalence of regulatory standards. The industry conferees suggested further that the following five criteria be considered for use by regulatory agencies in determining functional equivalence for motor vehicle safety requirements:

1. Same/equivalent regulatory language or same/equivalent intent or purpose.

2. Same/equivalent design execution to meet regulatory requirements.

3. Substantial and substantive successful prior experience with acceptance of differing regulations, concerning the same systems in a single jurisdiction.

4. Same/equivalent test performance levels.

5. No substantive safety performance difference based upon field crash injury data assessment.

The industry conferees noted that where divergent requirements exist, more objective comparative assessments could be needed to provide a determination of functional equivalence. For example, additional criteria may have to be developed with respect to analytical modeling, jury assessment, comparative testing, and real world crash data analysis.

The industry conferees stated that AAMA and ACEA are committed to completing functional equivalence assessments for all regulatory requirements listed in Attachment IV–1 to the Safety Working Paper. (See the Appendix to this notice.)

At the 15th ESV Conference, Dr. Martinez discussed some of the challenges in making functional equivalence determinations. He noted that the purpose of determining whether existing standards are ''functionally equivalent'' is that—

> (I)f two different countries have regulations addressing the same aspect of a problem and accomplishing similar results, compliance with either regulation should be acceptable to both countries.
>
> While determining functional equivalence sounds simple in concept, it may not necessarily be easy to do in practice. There is a need to define what is meant by saying that two regulations ''accomplish essentially the same purpose'' and to agree on what methods should be used to determine when that definition is satisfied. If two different regulations addressing the same problem are stated in nearly identical terms, it should be relatively easy to obtain agreement on whether they are functionally equivalent.
>
> Typically, however, regulatory requirements are not stated in identical terms. Some regulations are based on performance, while others are based on design. Even if the two regulations addressing the same general problem are both based on performance, they may reflect entirely different approaches to solving the underlying safety problem. Finally, the regulations may differ substantially in their test procedures, and may cover different specific aspects of a general safety problem.
>
> Before any regulatory body can reasonably conclude that a regulation of another country is functionally equivalent to one of its own regulations and permit compliance with the foreign regulation as an alternative to its existing regulation, it must assess and consider the safety consequences of granting that permission. Once ''functional equivalence'' is defined, many scientific techniques, such as crash data analysis, analytic modeling and comparative testing, can be used to help assess whether different requirements are functionally equivalent.

b. *Certification.* The processes for certification of compliance with motor vehicle safety and environmental regulations in the U.S. and Europe are based on fundamentally different principles. In Europe, and in the U.S. so far as emission regulations are concerned, manufacturers obtain type approval certificates from governmental agencies that their vehicles comply with the requirements before they are offered for sale or allowed to be driven on the road. In the U.S., although manufacturers must self-certify that they comply with the Federal motor vehicle safety and noise emission standards before their vehicles are offered for sale, they have no initial obligation to prove compliance with the regulations to a governmental agency.

The industry conferees noted that while global harmonization may proceed on the basis of common

technical requirements alone, e.g., by means of findings of functional equivalence, it may also be desirable to have one mutually acceptable certification process.

3. UN-ECE 1958 Agreement

NHTSA and EPA are participating, on behalf of the United States Government, in negotiations regarding a U.S. proposed revision to the UN/ECE 1958 Agreement. The current Agreement provides procedures for establishing uniform regulations regarding new motor vehicles and motor vehicle equipment and for reciprocal recognition of type approvals issued pursuant to such regulations primarily for use in Europe. It has succeeded in harmonizing many of the European vehicle safety and noise emission standards. In addition, some ECE Regulations are recognized or applied by some countries in non-European areas such as Asia, Australia, South Africa and South America. The Agreement is administered by the Working Party on the Construction of Vehicles (WP29), a subsidiary group of the ECE.

NHTSA and EPA recognize the value of a truly global standards harmonization forum, but believe that WP29 has not yet evolved into one. Accordingly, while the U.S. is a member of the UN/ECE, it is not a Contracting Party to the Agreement.

In November 1995, at the 107th session of WP29 in Geneva, Switzerland, the U.S. stated its criteria for revising the 1958 Agreement to create a truly global forum, which would include a process for developing globally harmonized regulations. These criteria addressed both the process of harmonization in which nations could engage if they so choose and the rights of nations on voting, adoption of global technical regulations, and accession to the agreement. Dr. Martinez declared the intent of the U.S. to sign an agreement if it satisfied those criteria.

NHTSA and EPA note that signing such an agreement would not commit the U.S. to adopting regulations harmonized under that agreement. Adoption of those standards would be voluntary. The U.S. would sign a revised agreement only under terms that reserve the decision about adoption of any harmonized regulation contingent upon the normal U.S. rulemaking processes under the Administrative Procedure Act and authorizing statutes of NHTSA and EPA.

NHTSA and EPA revised and expanded upon their criteria at the Washington Conference. Those criteria are contained in a document, ''Synopsis of Principal Elements of U.S. Proposed Amendments to the WP29 Agreement,'' which has been placed in the docket for this notice.

B. Topics for the Public Meetings

1. Safety and Process Issues

a. *Harmonized Research.*

1. What actions are needed by the U.S. to ensure a continuing commitment to coordinated research?

2. What kinds of data would be necessary to evaluate the effect on highway deaths and injuries of different standards addressing similar safety issues (e.g., frontal crashes, side impact, safety belt strength, etc.)?

3. If government agencies are to cooperate in their research on future rulemaking, must there be a single set of data to serve as the basis of such rulemaking?

4. Could governments expect to derive any financial benefits from such cooperative research programs, as compared with independently funding independent research?

5. Please comment on the research priorities agreed to at the 15th ESV Conference.

6. Are there other research issues, in addition to the six designated as priorities at the 15th ESV Conference, that should be on the agenda of globally harmonized research? If so, please explain why they should be added.

7. What steps should be taken to inform and involve the vehicle industry, the insurance companies, consumers groups, medical community and other interested groups and individuals regarding each priority research area?

b. *Mutual Recognition.* (If a commenter believes that its answer to any question would be the same for both crash avoidance standards and crashworthiness standards and/or air and noise emission standards, please so indicate. Conversely, if the answer would be different, please indicate how, and why. Similarly, please indicate if an answer would be the same with respect to standards that yield relatively high benefits and standards that yield relatively low benefits.)

8. How should ''functional equivalence'' be defined?

9. What criteria should be used in determining the functional equivalence of two standards?

10. Are the criteria suggested by the industry conferees suitable for use by regulatory agencies in determining functional equivalence for both motor vehicle safety and environmental requirements?

11. Where divergent requirements exist, more objective comparative assessments could be needed to provide a determination of functional equivalence. For example, would additional criteria have to be developed with respect to analytical modeling, jury assessment, comparative testing, and real world crash data analysis?

12. Should ''functional equivalence'' serve as the basis for mutual recognition by two or more countries of their regulatory requirements?

13. Although there is general agreement that harmonization must not result in a reduction in real world safety or environmental performance, on what basis should this judgment be made?

14. Can the ''harm reduction'' analysis mentioned in the Section IV of the Working Papers and used by the Australian Federal Office of Road Safety in comparing the benefits of the U.S. side impact standard (Federal Motor Vehicle Safety Standard (FMVSS) No. 214) and EU side impact standard (ECE R95) be used generally to compare the benefits of U.S. and EU standards? The harm reduction method adopts a ''systematic approach to estimating benefits by body region injured for a range of suitable variables and uses objective performance data to establish likely injury reductions.''

Another methodology for estimating benefits is NHTSA's ''cost per equivalent life saved.'' [5] In the environmental area, there is the EPA's ''cost per ton of pollution removed'' methodology. Are there other comparative methods that might be considered? What practical problems or limitations would those methods have? How could those problems and limitations be overcome or at least minimized?

NHTSA notes that the harm reduction analysis of the side impact regulations mentioned above considered benefits only. While the primary question in determining functional equivalence would be the relative benefits of two regulations addressing the same issue, NHTSA must consider costs as well as

[5] In addressing the impact of proposed regulations, NHTSA performs a cost effectiveness analysis in which nonfatal injuries are valued relative to a fatality. These ''equivalent fatalities'' are then added to fatalities to determine the total equivalent fatalities prevented. Any monetary impacts which are not directly associated with bodily injury, such as property damage or travel delay, are deducted from the cost of the countermeasure. The remaining net cost is then divided by the total equivalent fatalities to determine the net cost per equivalent fatality. This represents the money society must spend under the proposed countermeasure to prevent one death, or its equivalent in nonfatal injuries. Policy makers assess this cost in light of current economic, social, and political considerations before determining whether to require new safety features.

benefits in issuing or amending a FMVSS.

(A copy of the analysis, ''Harm Reduction for Estimating Countermeasure Benefits,'' by Brian Fildes and Kennerly Digges, has been placed in the docket for this notice.)

15. Is the process underlying the format for making a functional equivalence determination shown in Attachment IV–2 to the Safety Working Paper a suitable basis for determining functional equivalence between U.S. and EU standards? For an example of the process format, see the Appendix to this notice.

16. If there were an accepted body of data that describes the real world performance of a given requirement, would a regulatory agency have the ability to justify a statement that two different regulations, addressing the same aspect of motor vehicle safety or environmental pollution, are functionally equivalent?

17. If scientific techniques such as crash data analysis, analytic modeling, and comparative testing were applied to understanding real world safety performance of differing regulatory requirements, would there be an objective basis for defending a judgment of a functional equivalence?

18. How are the problems of harmonization between a regulatory system based on self-certification and one based on type approval to be minimized? Is it practicable to have one mutually acceptable certification process? If so, what steps should be taken to move in that direction?

19. What impact would mutual recognition have on NHTSA's and/or EPA's compliance testing? What implications would amending the FMVSSs to permit compliance with functionally equivalent ECE regulations have for NHTSA's compliance testing costs and enforcement? What implications would amending the EPA air and noise emission regulations have for EPA's compliance testing costs and enforcement?

c. *UN/ECE 1958 Agreement.* (The first two questions below are based on recommendations by the industry conferees in Section III of the Working Papers.)

20. Would it be possible for the U.S. to participate in the development of new regulatory requirements through WP29 with the intent of adopting them into national or regional laws, to the extent possible?

21. What actions are statutorily or administratively necessary to permit the U.S. to participate in the development of new regulatory requirements through WP29 with the intent of adopting them into law, to the extent possible, and for WP29 to fulfill this task?

22. The statutory provisions authorizing NHTSA's and EPA's standard setting and the Administrative Procedures Act would prevent both agencies from committing to adopt international regulations adopted by WP29, now or in the future. However, it would be permissible to establish a policy of publishing notices requesting public comment on new regulations as they are adopted by WP29. Were the UN/ECE 1958 Agreement revised sufficiently to make it appropriate for the U.S. to become a Contracting Party, should NHTSA and EPA consider establishing such a policy?

4. *Environmental Issues.* The public meeting on July 11 will focus on the issues in the Working Paper on the Environment (Section V).

5. *Other Issues.* NHTSA and EPA invite comment on any other issues raised by the ''Overall Conclusions'' and ''Working Papers'' of the Washington Conference and any other issue relevant to international harmonization.

C. Procedural Matters regarding the Public Meetings and Written Comments

1. Public Meeting Procedures

All interested persons and organizations are invited to attend the meetings. Persons wishing to speak at the public meeting regarding safety and regulatory process issues should so inform the NHTSA contact person by July 5, 1996. Persons wishing to speak at the public meeting regarding environmental issues should so inform the EPA contact person by July 5, 1996. A schedule of persons making oral statements will be available in the designated meeting room at the beginning of the meetings.

Oral statements should be limited to 20 minutes. If the number of requests for oral statements exceeds the available time, the agencies may ask prospective speakers and organizations with similar views to combine or summarize their statements. If the statement will include slides, motion pictures, or other visual aids, please inform the NHTSA contact person so that the proper equipment may be made available. NHTSA will place a copy of any written statement for oral presentation in the docket for this notice. A verbatim transcript of the meetings will be prepared and also placed in the docket as soon as possible after the meeting.

The presiding officials may ask questions of any person making an oral statement. The public may not directly question persons making oral statements. However, the public may submit, in writing, suggested questions for the officials to consider addressing to the presenters.

To facilitate communication, NHTSA will provide auxiliary aids to participants as necessary, during the meetings. Thus, any person desiring assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunications, devices for deaf persons (TDDs), readers, tape texts, braille materials, or large print materials and/or magnifying device), should inform the NHTSA contact person.

2. Written Comment Procedures

Any interested person can submit written comments in response to this notice. Persons wishing to submit written comments need not attend the meeting. It is requested, but not required, that 10 copies be submitted.

All written comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

To facilitate the distribution and reading of comments relating to a particular issue area, commenters are requested to divide their written comments into two segments: (1) safety and regulatory process, and (2) environment.

All comments received before the close of business on the comment closing date indicated will be considered, and will be available for examination in the docket at the above address both before and after that date. Comments filed after the closing date will also be docketed and, to the extent possible, considered. The agencies will continue to file relevant information in their respective dockets as it becomes available after the closing date. Accordingly, it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their written comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

If a commenter wishes to submit certain information relating to safety or regulatory process under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street

address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512. If a commenter wishes to submit certain information relating to environmental issues under a claim of confidentiality, the commenter should contact the office of the EPA General Counsel.

Issued on: June 12, 1996.

Frank Turpin,

Director, NHTSA Office of International Harmonization.

APPENDIX—FMVSS 209 77/541/EEC, ECE R16 SAFETY BELTS

[Safety Working Paper, Attachment IV–2, Functional Equivalent Process]

Item	FMVSS	EU	ECE	Technical differences in regulations	Performance differences for products	Prodcut impact	Safety benefits
Subject	Seat belt assemblies—209.	Safety belts and Restraint Systems for Adult Occupants of Power-driven Vehicles—77/541/EEC.	Safety belts and Restraint Systems for Adult Occupants of Power-driven Vehicles—ECE R–16.				
Vehicle Application.	Passenger cars, MPV's, trucks and buses.	Power-driven vehicles with four wheels, a design speed > 25 km/h and intended as individual equipment by adult persons in forward facing position.	Power-driven vehicles with three or more wheels and intended for use as individual equipment, by persons of adult build occupying seats facing forward.	77/541/EEC is applicable to M1 vehicles—a passenger vehicle with a capacity of 9 passengers or less including driver.			
Safety Belt System Hardware Application.	Type 2 front and rear outboard seat positions. Type 1 or 2 front and rear center seat positions. FMVSS 208 upper torso requires emergency locking retractor, lower torso (lap belt) requires ELR, ALR or manual adjustment device.	Type A (lap/shoulder belt) for front and rear outboard seat positions. Type A or B (lap belt) in front and rear center positions.	Type A (lap/shoulder belt) for front and rear outboard seat positions. Type A or B (lap belt) in front and rear center positions.	Basically the same for three and two point belt systems. Except (1) EEC/ECE retractors require two emergency locking sensors; FMVSS 209 requires one. (2) FMVSS 209 requires a child seat locking device [except driver's seat] that is integral with belt & retractor assembly.	.....	Seat belt systems hardware are basically the same, except for compliance to some unique performance requirements and procedures noted below.	

APPENDIX—FMVSS 209 77/541/EEC, ECE R16 SAFETY BELTS—Continued

[Safety Working Paper, Attachment IV–2, Functional Equivalent Process]

Item	FMVSS	EU	ECE	Technical differences in regulations	Performance differences for products	Prodcut impact	Safety benefits
Test Procedures and Requirements.	Webbing Sensitivity: If the retractor is sensitive to webbing withdrawal it must not lock before the webbing extends 2 inches (50.8 mm) when the retractor is subjected to an acceleration < or = to 0.3g—test with webbing at 75% extension—apply acceleration of 0.3g within 0.05 seconds or at a rate > or = to 6g's/sec.	Webbing Sensitivity: Retractor must not lock at strap accelerations of less than 0.8g in the direction of unreeling. If locking does not occur before 50 mm of webbing is unwound, this is considered satisfied. Retractor—must lock within 50 mm of strap movement at webbing accel relative to the retractor of not less than 2.0g—test with 300 mm + or − 3mm of webbing remaining in the retractor—apply accel at a rate > 25 g's/sec and < 150 g's/sec.	FMVSS 209 does not require locking by this requirement.	.....	Both FMVSS 209 and 77/541/EEC.ECE 16 have a no-lock requirement, but only 77/541/EEC.ECE 16 has a lock requirement. This does not have any effect on retractor lock-up because both regulations have a vehicle sensing lock-up feature as a primary method. EEC/ECE requires two methods of sensing emergency (or inertia) lock-up, whereas FMVSS requires only one. Apparent benefit is that occupant can verify that the retractor will lock-up by quickly pulling on belt. This feature is considered as a back-up to vehicle sensing lock-up, even though there is no evidence that such a feature is required.	Compliance with EEC/ECE requirements may be considered a nuisance to U.S. consumers because of higher frequency of belt lock-ups.	

U.S./EU Harmonization—Examples of Performance Elements Regulated in the U.S. and EU

Safety Working Paper, Attachment IV–1, EU/U.S. Listing of Regulations

Short Term

Windshield defrosting and defogging systems
Windshield wiping and washing systems
Tire selection and rims
Headlamp concealment devices
Occupant protection in interior impact (frontal)
Head restraints
Impact protection for the driver from the steering control system
Steering control rearward displacement
Glazing materials
Door locks and door retention components
Seating systems

Medium Term

Controls and displays
Lamps, reflective devices and associated equipment
Rearview mirrors
Theft protection
Vehicle identification number—basic requirements
Air brake systems
Passenger car brake systems
Seat belt assemblies
Seat belt assembly anchorages
Child restraints systems
Seating reference point
Side impact anthropomorphic test dummy

Long Term

Occupant crash protection in frontal impact
Side impact protection
Occupant protection in interior impact (other than frontal)
Fuel system integrity
Flammability of interior materials
Bumpers
Side impact barrier

Child anthropomorphic test dummies

[FR Doc. 96–15331 Filed 6–12–96; 5:03 pm]

BILLING CODE 4910–59–P

Surface Transportation Board [1]

[STB Docket No. AB–290 (Sub-No. 182X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Claiborne and Campbell Counties, TN

Norfolk Southern Railway Company (NS) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 14.3 miles of its line of railroad between milepost O.O-TC at Arco Junction and milepost 14.3–TC at Arco, in Claiborne and Campbell Counties, TN.

NS has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 17, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 [4] must be filed by June 27, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 8, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by June 21, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 11, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–15294 Filed 6–14–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: Notice of calculation and interest.

SUMMARY: This notice advises the public of an increase in the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts and refunds of Customs duties. For the quarter beginning July 1, 1996, the rates will be 8 percent for overpayments and 9 percent for underpayments. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harry Bunn, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1252.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the Federal Register on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service on behalf of the Secretary of the Treasury based on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less, and fluctuate quarterly. The rates effective for a quarter are determined during the first-month period of the previous quarter. The rates of interest for the fourth quarter of fiscal year (FY) 1996 (the period of July 1–September 30, 1996) are increased to 8 percent for overpayments and 9 percent for underpayments. These rates will remain in effect through September 30, 1996, and are subject to change for the first quarter of FY–1997 (the period of October 1–December 31, 1996).

Dated: June 12, 1996.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 96–15317 Filed 6–14–96; 8:45 am]

BILLING CODE 4820–02–P

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[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[4] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

Internal Revenue Service

Proposed Collection; Comment Request for Form 2678

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2678, Employer Appointment of Agent.

DATES: Written comments should be received on or before August 16, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer Appointment of Agent.

OMB Number: 1545–0748.

Form Number: Form 2678.

Abstract: Internal Revenue Code section 3504 authorizes a fiduciary, agent or other person to perform acts of an employer for purposes of employment taxes. Form 2678 is used to empower an agent with the responsibility and liability of collecting and paying the employment taxes including backup withholding and filing the appropriate tax return.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms and the Federal Government.

Estimated Number of Respondents: 95,200.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 47,600.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–15328 Filed 6–14–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 9620

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning Form 9620, Race and National Origin Identification.

DATES: Written comments should be received on or before August 16, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Race and National Origin Identification.

OMB Number: 1545–1398.

Form Number: Form 9620.

Abstract: This form on its own and when combined with other Internal Revenue Service tracking forms will allow the Service to determine its applicant/employee pool, and thereby, enhance its recruitment plan. It will also allow the IRS to determine how its diversity/EEO efforts are progressing, and to determine adverse impact on the employee selection process.

Current Actions: The only change to Form 9620 is the addition of the gender (male and female).

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, and the Federal Government.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 12, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–15329 Filed 6–14–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 8233

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

DATES: Written comments should be received on or before August 16, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

OMB Number: 1545–0795.

Form Number: 8233.

Abstract: Compensation paid to a nonresident alien individual for independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, such compensation may be exempt from withholding because of a U.S. tax treaty or the personal exemption amount. Form 8233 is used to request exemption from withholding. Nonresident alien students, teachers, and researchers performing dependent personal services also use Form 8233 to request exemption from withholding.

Current Actions

Changes to Form 8233

1. Under *Nonresident Alien Individual Identification,* the ''visa number'' line has been expanded to require ''visa type and number''.

2. Line 3 is new. The nonresident alien individual will now be required to specifically identify the primary purpose for his/her presence in the United States. This identification ties in with the visa type and number issued by INS.

3. Line 5b is new. Many recently ratified treaties require that specified conditions must be met before income can by fully or partially exempted, and/or provide a specific dollar limit.

Therefore, it is necessary that both total income and the amount of the income which is exempt from tax be reported.

4. Line 3d on the current version has been deleted.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals, businesses, and not-for-profit institutions.

Estimated Number of Respondents: 480,000.

Estimated Time Per Respondent: 1 hr., 28 min.

Estimated Total Annual Burden Hours: 696,556.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 5, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–15330 Filed 6–14–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans; Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103–446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held July 12, 1996, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The meeting will convene in room 530, VA Central Office (VACO) Building, 810 Vermont Avenue, NW, Washington, DC, from 2:00 p.m. to 5:30 p.m. The meeting will be conducted by way of a conference call. Committee members residing in the Washington Metropolitan area will be present in room 530. All other members will be linked via telephone. The Committee will meet to work on recommendations to be included in its annual report to the Secretary. The Committee will discuss subcommittee reports and findings. All sessions will be open to the public up to the seating capacity of the room. Because seating is limited, it will be necessary for those wishing to attend to contact Mrs. Angelia Sare, Department of Veterans Affairs (phone (202) 273–6708) prior to July 10, 1996. No time will be allocated for the purpose of receiving oral presentations from the public, however, the Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: June 6, 1996.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–15220 Filed 6–14–96; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 61, No. 117
Monday, June 17, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Eiteljorg Museum of American Indians and Western Art, Indianapolis, IN

Correction

In notice document 96–14408 appearing on page 29132 in the issue of Friday, June 7, 1996, in the 3rd column, in the last paragraph, beginning in the 12th line ''[*thirty days following publication in the* Federal Register]'' should read ''July 8, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from the Vicinity of Victorville, CA in the Possession of the Los Angeles County Museum of Natural History, Los Angeles, CA

Correction

In notice document 96–13582 appearing on page 27097 in the issue of Thursday, May 30, 1996, in the 2d column, in the last paragraph, beginning in the 12th line ''[*thirty days after publication in the* Federal Register]'' should read ''July 1, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Maxicare Pharmacy, Revocation of Registration

Correction

In notice document 96–13685 beginning on page 27368 in the issue of Friday, May 31, 1996 make the following corrections:

(1) On page 27368, in the second column, in the first full paragraph:

(a) In the 8th line ''DA'' should read ''DEA''.

(b) In the 10th line ''under U.S.C. 824(a)(2)'' should read ''under 21 U.S.C. 824(a)(2)

(c) In the 26th line ''indicated'' should read ''indicted''.

(2) On page 27369, in the first full paragraph, five lines from from the bottom ''in'' should read ''is''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-ACE-2]

Amendment to Class E Airspace: Kaiser, MO; Camdenton, MO; Sedalia, MO; West Plains, MO; Point Lookout, MO; St. Charles, MO; Monett, MO; Butler, MO; Monroe City, MO; Farmington, MO; Fort Leavenworth, Sherman Army Airfield, KS; and Dodge City, KS

Correction

In rule document 96–14263 beginning on page 28743 in the issue of Thursday, June 6, 1996, make the following correction:

§ 71.1 [Corrected]

On page 28744, in the third column, in § 71.1, under ACE MO E5 St. Louis, MO, in the fourth line, ''104″'' should read ''04″''.

BILLING CODE 1505–01–D

Federal Register

Monday
June 17, 1996

Part II

Department of Transportation

Federal Railroad Administration

49 CFR Parts 223, 229, 232, and 238

Passenger Equipment Safety Standards; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 223, 229, 232, and 238

[FRA Docket No. PCSS–1; Notice No. 1]

RIN 2130–AA95

Passenger Equipment Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: FRA announces the initiation of rulemaking on rail passenger equipment safety standards. FRA requests comment on the need for particular safety requirements and the costs, benefits, and practicability of such requirements. FRA anticipates this rulemaking will address the inspection, testing, and maintenance of passenger equipment; equipment design and performance criteria related to passenger and crew survivability in the event of a train accident; and the safe operation of passenger train service, supplementing existing railroad safety standards. FRA also announces the formation of a working group to assist FRA in developing this rule. FRA makes available preliminary safety concepts that have been placed before the working group. This notice is issued in order to comply with the Federal Railroad Safety Authorization Act of 1994, to respond to concerns raised by the General Accounting Office and the National Transportation Safety Board, to respond to public concerns, to respond to petitions for rulemaking, and to consider possible regulations derived from experience in application of existing standards.

DATES: (1) *Written comments:* Written comments must be received on or before July 9, 1996. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) *Public Hearing:* Requests for a public hearing must be made on or before July 9, 1996.

ADDRESSES: Address comments to the Docket Clerk, Office of Chief Counsel, RCC–30, Federal Railroad Administration, 400 Seventh Street, S.W., Room 8201, Washington, D.C. 20590. Comments should identify the docket and notice number and be submitted in triplicate. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The dockets are housed in Room 8201 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION, CONTACT: Edward W. Pritchard, Acting Staff Director, Motive Power and Equipment Division, Office of Safety Assurance and Compliance, RRS–14, Room 8326, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–0509 or 202–366–9252), or Daniel L. Alpert, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION:

Introduction

Mandate

FRA requests comment on possible regulations governing rail passenger equipment. FRA believes such regulations are necessary for several reasons. In particular, effective Federal safety standards for freight equipment have long been in place, but equivalent standards for passenger equipment do not currently exist. The Association of American Railroads (AAR) sets industry standards for the design and maintenance of freight equipment that add materially to the safe operation of this equipment. However, over the years AAR has discontinued the development and maintenance of passenger equipment standards.

Worldwide, passenger equipment operating speeds are increasing. Several passenger trainsets designed to European standards have been proposed for operation at high speeds in the United States. In general, these trainsets do not meet the structural or operating standards that are common practice for current North American equipment. The North American railroad operating environment requires passenger equipment to operate commingled with very heavy and long freight trains, often over track with frequent grade crossings used by heavy highway equipment. European passenger equipment design standards may therefore not be appropriate for the North American operating environment. A clear set of safety and design standards for future passenger equipment tailored to the North American operating environment is needed to provide for the safety of future rail operations and to facilitate sound planning for those operations.

The Federal Railroad Safety Authorization Act of 1994 (the Act), Pub. L. 103–440, 108 Stat. 4619 (November 2, 1994), requires FRA to develop initial rail passenger equipment safety standards within 3 years of enactment and final regulations within 5 years of enactment. The Act also gives FRA an important tool to be used to help develop these safety standards: FRA is allowed to consult with the National Railroad Passenger Corporation (Amtrak), public authorities, passenger railroads, passenger organizations, and rail labor organizations without being subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Approach

FRA established a Passenger Equipment Safety Standards Working Group (Working Group) comprised of representatives of the types of organizations listed in the Act to provide the consultation allowed by the Act. The Working Group first met on June 6, 1995, and continues to meet to assist FRA in developing passenger equipment safety standards. This ANPRM describes the issues before the Working Group, and seeks the assistance of other interested persons in providing information and views pertinent to this effort. FRA intends to use the Working Group throughout this rulemaking. The minutes of the Working Group meetings and the materials distributed at these meetings to date have been placed in the docket. FRA intends to keep a current record of the Working Group's activities and decisions in the docket.

Topics Covered

Specific topics discussed by this ANPRM include:

(1) System safety programs and plans;

(2) Passenger equipment crashworthiness;

(3) Inspection, testing and maintenance requirements;

(4) Training and qualification requirements for mechanical personnel and train crews;

(5) Excursion, tourist and private equipment;

(6) Commuter equipment and operations;

(7) Train make-up and operating speed;

(8) Tiered design standards based on a system safety approach;

(9) Fire safety; and

(10) Operating practices and procedures.

FRA solicits suggestions for other matters related to passenger train safety standards that should be considered in order to promote safe and efficient train operations. FRA also solicits suggestions for alternate approaches or ways to structure passenger equipment safety standards.

Purpose of Notice

Section 215 of the Act (49 U.S.C. 20133) requires the Secretary of Transportation to prescribe minimum standards ''for the safety of cars used by railroad carriers to transport passengers.'' The Act specifically requires the Secretary to consider—

(1) The crashworthiness of the cars;

(2) Interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;

(3) Maintenance and inspection of the cars;

(4) Emergency procedures and equipment; and

(5) Any operating rules and conditions that directly affect safety not otherwise governed by regulations.

Given the breadth of the specific items listed in the Act, it is clear that the Congress intended the agency to consider the safety of rail passenger service as a whole, determining the extent to which existing regulations should be supplemented or strengthened. Existing regulations affecting the safety of rail passenger service include standards for signal and train control systems, track safety, power brakes, glazing, programs of testing and training for railroad operating rules, and hours of service of safety-critical personnel, among others. While existing locomotive safety regulations address the structural characteristics of multiple-unit powered cars, non-powered cars are not subject to the same standards. In addition, FRA has not issued regulations addressing interior features of passenger equipment.

The Act requires issuance of initial passenger safety regulations within 3 years and final regulations within 5 years. FRA intends to establish a reasonably comprehensive structure of necessary safety regulations for rail passenger service in initial standards. Where further research is needed to develop a technical foundation for safety improvements, rulemaking may be completed over the 5-year period referred to in the Act.

The Act permits FRA to apply new requirements to existing passenger cars, but requires FRA to explain why any such ''retrofit'' requirements are imposed. FRA believes that passenger equipment operating in permanent service in the United States has established a good safety record, proving its compatibility with the operating environment. Many of the structural design changes identified during preliminary analyses are likely to be cost effective only if implemented for new equipment. Appropriate analysis should be conducted to evaluate whether selected safety measures can be applied to existing equipment or to rebuilt equipment on a cost-effective basis.

Collaborative Rulemaking and This Advance Notice

FRA is committed to the maximum feasible use of collaborative processes in the development of safety regulations. As a means to allow the industry to collaborate with FRA to develop this rulemaking, FRA established the Passenger Equipment Safety Standards Working Group, as described earlier. FRA structured the Working Group to give a balanced representation of the types of organizations listed in the Act.

A list of the private sector members of the Working Group is given in Table 1.

TABLE 1.—RAIL PASSENGER EQUIPMENT SAFETY STANDARDS; WORKING GROUP MEMBERSHIP LIST

Organization represented	Representative	Mailing address	Telephone	Fax
Amtrak	George Binns, General Manager for Compliance and Standards.	National Railroad Passenger Corporation, 30th Street Station, 4th Floor South, Philadelphia, PA 19104.	(215) 349–2731	(215) 349–2767
United Transportation Union	David Brooks, Conductor	15200 Brooksview, Brandywine, MD 20613.	(301) 888–1277	
National Association of Railroad Passengers.	Ross Capon, Executive Director	900 Second Street, N.E., Washington, DC 20002–3557.	(202) 408–8362	(202) 408–8287
American Public Transit Association.	Frank Cihak, Chief Engineer	1201 New York Avenue, N.W., Washington, DC 20005.	(202) 898–4080	(202) 898–4049
Federal Railroad Administration	Grady Cothen, Deputy Associate Administrator for Safety Standards.	400 Seventh Street, S.W., Washington, DC 20590–0002.	(202) 366–0897	(202) 366–7136
Electro-Motive Division, General Motors Corporation.	Harvey Boyd, Senior Research Engineer.	9301 West 55th Street, La Grange, IL 60525.	(708) 387–6013	(708) 387–5239
Federal Transit Administration	Jeffrey Mora, Office of Technology.	400 Seventh Street, S.W., Washington, DC 20590–0002.	(202) 366–0215	(202) 366–3765
American Association of State Highway and Transportation Officials.	William Green, Senior Railroad Inspector.	New York State Dept of Transportation, 120 Washington Avenue, Albany, New York 12232.	(518) 457–4547	(518) 457–3183
Safe Travel America	Arthur Johnson, Chairman	10600 Red Barn Lane, Potomac, MD 20854.	(301) 762–7903	
Brotherhood of Locomotive Engineers.	Leroy Jones, International Vice President.	400 North Capitol Street, N.W., Suite 850, Washington, DC 20001.	(202) 347–7936	(202) 347–5237
Brotherhood Railway Carmen	Hank Lewin, Vice President	AFL/CIO Building, Suite 511, 815 16th Street, N.W., Washington, DC 20006.	(202) 783–3660	(202) 783–0198
Siemens Transportation Systems, Inc..	Frank Guzzo, Director Rolling Stock.	700 South Ewing, St. Louis, MO 63103.	(314) 533–6710	
Bombardier Corporation, Transportation Equipment Group.	Larry Kelterborn, Consultant	1084 Botanical Drive, Burlington, Ontario, Canada L7T 1V2.	(905) 577–1052	(905) 577–1055
National Transportation Safety Board.	Russ Quimby, Investigator	490 L'Enfant Plaza, S.W., Washington, DC 20594.	(202) 382–6644	(202) 382–6884
American Public Transit Association.	Dennis Ramm, Chief Mechanical Officer, Metra.	547 W. Jackson Blvd., Chicago, IL 60661.	(312) 322–6575	(312) 322–6502

TABLE 1.—RAIL PASSENGER EQUIPMENT SAFETY STANDARDS; WORKING GROUP MEMBERSHIP LIST—Continued

Organization represented	Representative	Mailing address	Telephone	Fax
Federal Railroad Administration	Brenda Moscoso, Economist, Office of Safety Analysis.	400 Seventh Street, S.W., Washington, DC 20590–0002.	(202) 366–0352	.....
Federal Railroad Administration	Thomas, Tsai, Program Manager, Office of Research.	400 Seventh Street, SW., Washington, DC 20590–0002.	(202) 366–1427	.....

TABLE 2.—PASSENGER TRAIN OCCUPANT CASUALTIES; TEN YEAR PERIOD 1985–1994

	Train accidents		Grade crossing accidents		Non-accident passenger train incidents		Total passenger train occupants	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
1985	0	287	0	30	3	424	3	741
1986	1	409	0	72	4	269	5	750
1987	17	258	0	20	1	261	18	539
1988	2	160	0	39	2	246	4	445
1989	1	103	2	123	8	253	11	479
1990	0	238	1	41	3	280	4	559
1991	9	61	0	29	0	333	9	423
1992	0	48	1	114	3	299	4	461
1993	54	171	1	86	9	402	64	659
1994	3	129	0	96	3	343	6	568
Totals	87	1864	5	650	36	3110	128	5624

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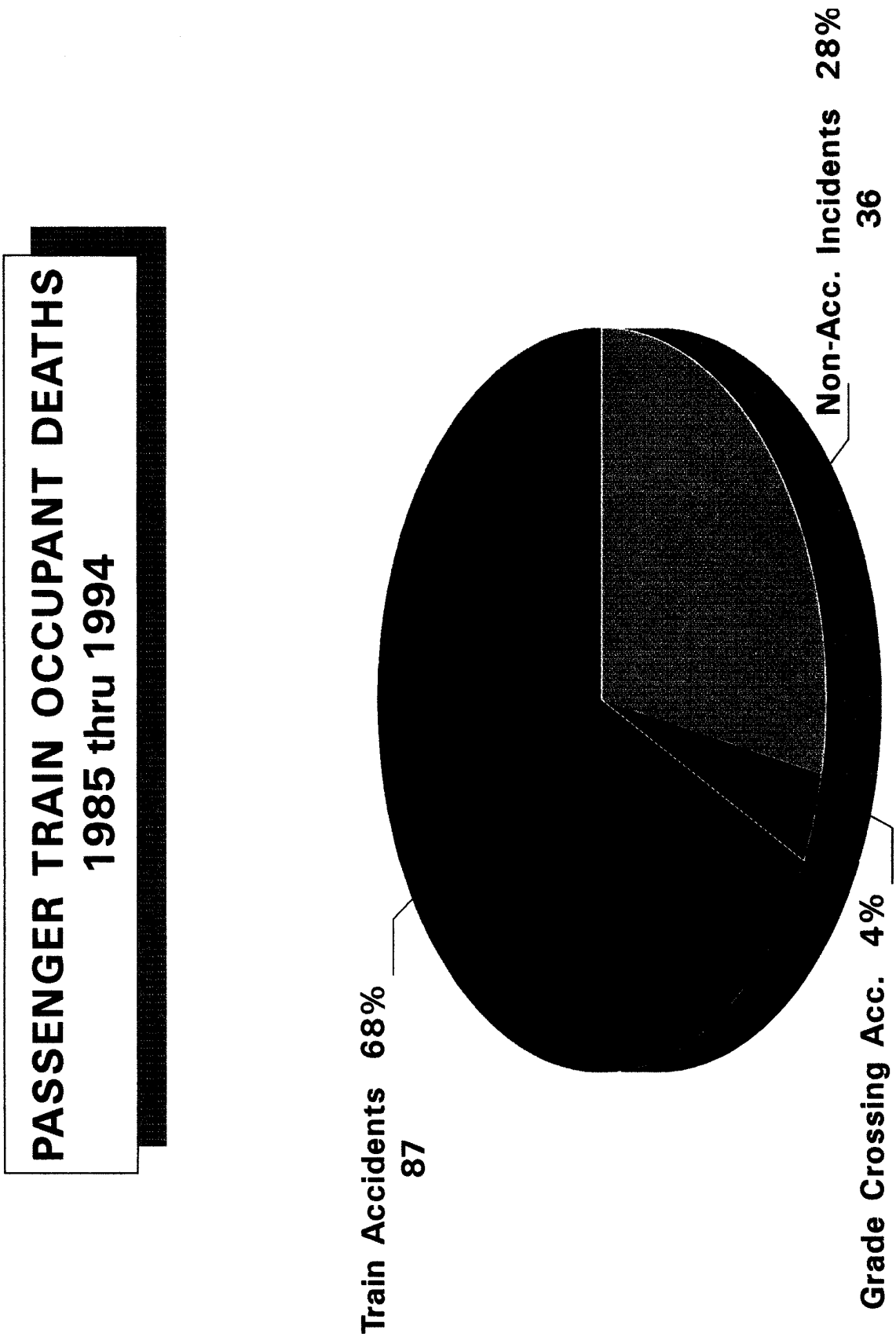

Figure 1

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An FRA representative chairs the Working Group, and a representative of the Federal Transit Administration (FTA) serves as associate member. Staff members from the National Transportation Safety Board (NTSB) also attend and assist the Working Group. In addition, the Working Group is supported by FRA program, legal and research staff, including technical personnel from the Volpe National Transportation System Center (Volpe Center). Vendors of equipment to passenger railroads constitute another essential source of information about rail passenger equipment safety. Accordingly, FRA has included vendor representatives designated by the Railway Progress Institute (RPI) as associate members of the Working Group. As one of its first tasks, the Working Group developed a statement of its charter and scope of effort.

The Working Group is broadly representative of interests involved in intercity and commuter service nationwide. This service is regularly scheduled, employs contemporary electric multiple-unit (MU) equipment, electric or diesel electric power, is often intermingled on common rights-of-way with freight movements, and often involves maximum speeds in the range of 79 to 125 miles per hour (mph) with speeds up to 150 mph projected in the near future.

FRA also regulates approximately 100 additional railroads that provide service often characterized as historic, excursion, or scenic. These ''tourist'' or ''museum'' railroads often employ steam locomotives or older generation diesel power, and historic coaches or freight equipment modified for passenger use. Tourist and museum railroads vary widely in the nature of their operating environment, personnel, train speeds, and other characteristics. FRA intends to form a small, separate working group comprised of tourist and museum operators and freight or passenger railroads that host or provide this type of service. FRA will request that the Tourist Railway Association, the Association of Railway Museums, and AAR provide representation for this effort.

Regulations governing emergency preparedness and emergency response procedures for rail passenger service will be covered by a separate rulemaking and are being addressed by a separate working group. Persons wishing to receive more information regarding this separate effort should contact Mr. Dennis Yachechak, Operating Practices Division, Office of Safety Assurance and Compliance, RRS–11, Room 8314, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–0504) or David H. Kasminoff, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–0628).

FRA's commitment to developing a proposed rule through the Working Group necessarily influences the role and purpose of this ANPRM. FRA sets forth in this ANPRM numerous preliminary ideas regarding approaches to safety issues affecting passenger service. These are ideas that have already been placed before the Working Group as concrete, illustrative approaches to possible improvements in the safety of passenger service. They are provided in this ANPRM as information to any interested person not involved in the Working Group's deliberations. FRA wishes to emphasize, however, that these concepts do not constitute specific proposals of the agency in this proceeding, nor do they represent the position of the Working Group. In addition, issuance of this ANPRM should not be considered a diminution of FRA's intent to prescribe passenger equipment safety regulations within the 5-year period required by the Act.

FRA expects that the Working Group will develop proposed rules based on a consensus process. The proposals will be based on facts and analysis flowing from the Working Group's deliberations. Accordingly, FRA has requested that the Working Group's members and the organizations that they represent refrain from responding formally to this ANPRM.

Just as FRA will not prejudge the outcome of the Working Group deliberations, FRA asks organizations represented on the Working Group to avoid adopting fixed positions that could polarize the discussion within the Working Group. Rather, the deliberations of the Working Group should be permitted to mature through a careful, fact-based dialogue that leads to appropriate recommendations for cost-effective standards. The evolving positions of the Working Group members—as reflected in the minutes of the group meetings and associated documentation, together with data provided by the membership during their deliberations—will be placed in the docket of this rulemaking.

FRA invites other interested parties to respond to the questions posed in this ANPRM, submitting information and views that may be of assistance in developing a proposed rule. All comments provided in response to this ANPRM will be provided to the Working Group for consideration in preparation of the proposed rule.

Working Group's Scope of Effort

The Working Group will focus on developing safety standards for rail passenger equipment by applying a system safety approach—where practical—to:

(1) Determine and prioritize safety risks;

(2) Determine steps or corrective actions to reduce risks; and

(3) Optimize safety benefits.

The Working Group will recommend future research or test programs when a technology appears to have the potential for a safety benefit, but is not yet mature enough to be applied with confidence.

The Working Group will provide advice to FRA on all phases of the rulemaking process, to include:

(1) Recommending what issues or requirements must be covered by Federal regulations, and what issues or requirements can be effectively handled outside the body of Federal regulations by industry standards or some other means;

(2) Reviewing the written comments in response to the ANPRM, and recommending those comments that should affect a Notice of Proposed Rulemaking (NPRM);

(3) Providing cost information to support FRA's economic analysis of the proposed rule;

(4) Providing information and advice on the potential benefits of the proposed rule and its individual elements;

(5) Providing advice regarding critical assumptions required for the economic analysis;

(6) Reviewing and critiquing a draft NPRM prepared by FRA based on Working Group guidance;

(7) Reviewing the oral and written comments to the NPRM and recommending those comments that should affect a final rule;

(8) Reviewing and critiquing a draft final rule prepared by FRA based on Working Group guidance; and

(9) If requested by FRA, recommending actions to take to respond to any petitions for reconsideration received as a result of the final rule.

The Working Group will also assist FRA in drafting a second NPRM for passenger equipment power brake standards.

To ensure full development of the issues, the Working Group will attempt to draw on all sources within the industry to collect information necessary to conduct comparative analyses and reach decisions.

The Working Group will establish a procedure for considering ideas, approaches, and performance standards

for use as part of the safety standards. This procedure should be based on the concept of reaching an overall consensus. Overall consensus means represented organizations may object—even strongly—to individual ideas, approaches, or standards, but the organization can accept and ''live with'' the evolving set of standards as a whole. FRA believes the success of this entire innovative approach to rulemaking depends on the ability of the group to reach overall consensus.

The Working Group will consider whether to continue to meet on a periodic basis after final rulemaking to consider changes necessary to keep any rules or other standards current and responsive to the needs of the industry.

Background

Need for Passenger Equipment Safety Standards

Rail passenger service is currently operated with a high level of safety. However, accidents continue to occur, often as a result of factors beyond the control of the passenger railroad. Further, the rail passenger operating environment in the United States is rapidly changing—technology is advancing; equipment is being designed for ever-higher speeds; and many potential new operators of passenger equipment are appearing. With this more complex operating environment, FRA must become more active to ensure that passenger trains continue to be designed, built, and operated with public safety foremost.

The General Accounting Office (GAO) recognizes this need in Report GAO/RCED–93–196, entitled ''AMTRAK Should Implement Minimum Safety Standards for Passenger Cars.'' In addition, NTSB has issued several recommendations to FRA and to the railroad industry concerning the crashworthiness of locomotives. Although the recommendations directly apply to freight locomotives, the same concerns exist for passenger train locomotives or power cars.

NTSB's Crashworthiness Concerns

NTSB's interest in locomotive crashworthiness dates to 1970, and NTSB has made several safety recommendations to FRA and the industry concerning increased protection for crew members in the cab based on the following accidents:

- On September 8, 1970, a collision between an Illinois Central (IC) and an Indiana Harbor Belt (IHB) train occurred at Riverdale, Illinois. The collision caused the IC caboose to override the heavy under frame of the IHB locomotive demolishing the control cab of the locomotive. Two following cars continued in the path established by the caboose, completing the destruction of the locomotive cab. The IHB engineer was found dead in the wreckage. NTSB recommended that FRA and the industry expand their cooperative effort to improve the crashworthiness of railroad equipment (NTSB Safety Recommendation R–71–44).
- An accident on October 8, 1970, involving a Penn Central Transportation Company freight train and a passenger train near Sound View, Connecticut, again demonstrated the weakness of the locomotive crew compartment. This collision caused NTSB to reiterate its recommendation to improve the crash resistance of locomotive cabs (NTSB Safety Recommendation R–72–005). This recommendation was ultimately classified as ''Closed-No Longer Applicable'' following the issuance of Safety Recommendation R–78–27 which addressed the same issue.
- The investigation of the collision of three freight trains near Leetonia, Ohio, on June 6, 1975, again prompted NTSB to recommend increased cab crashworthiness, including consideration of a readily accessible crash refuge (NTSB Safety Recommendation R–76–009). This recommendation was classified as ''Closed-Acceptable Action'' on August 6, 1978, following FRA's assurance that studies were continuing in this area.
- On September 18, 1978, a Louisville and Nashville freight train collided head-on with a yard train inside yard limits at Florence, Alabama. The lead unit of the yard train overrode the lead unit of the freight train. The cab provided no protection for the head brakeman and engineer, who jumped but were run over by their train.
- On August 11, 1981, a Boston and Maine Corporation freight train and a Massachusetts Bay Transportation Authority commuter train collided head-on near Prides Crossing, Beverly, Massachusetts. The lead car of the commuter train overrode the freight locomotive, pushing components of the locomotive into the cab killing three people.

NTSB's investigations of the above accidents resulted in recommendations to FRA regarding crashworthiness protection to the locomotive operating compartments (NTSB Recommendations R–77–37, R–78–27, R–79–11, and R–82–34). As a result of the FRA-sponsored report ''Analysis of Locomotive Cabs,''[1] NTSB classified these four recommendations ''Closed-Acceptable Action'' on November 24, 1982.

- A rear-end collision of two Burlington Northern (BN) freight trains occurred near Pacific Junction, Iowa, on April 13, 1983. The operating compartment of the lead locomotive on the striking train, BN train 64T85, was overridden by the caboose of train 43J05 when the trains collided. The locomotive operating compartment was crushed. (In general, when a locomotive strikes a caboose or a light freight car, the lighter vehicle overrides the locomotive, frequently with devastating results.) As a result of this accident, NTSB issued a recommendation that FRA initiate and/or support a design study to provide a protected area in the locomotive operating compartment for the crew when a collision is unavoidable (NTSB Recommendation R–83–102). This recommendation was subsequently classified as ''Closed-Unacceptable Action/Superseded'' based on a future investigation that reiterated similar concerns regarding locomotive crashworthiness.
- On July 10, 1986, Union Pacific (UP) freight train CLSA–09 struck a standing UP freight train near North Platte, Nebraska, at a speed of approximately 32 mph. Three locomotives and eleven cars from both trains derailed, and the accident resulted in one fatality and three injuries. This accident, in which the locomotive cab section of train CLSA–09 was destroyed on impact, probably would have resulted in fatal injuries to the engineer and head brakeman of train CLSA–09 had they not jumped from the cab prior to the collision. As a result, NTSB issued Safety Recommendation R–87–23, which recommends that FRA:

> Promptly require locomotive operating compartments to be designed to provide crash protection for occupants of locomotive cabs.

NTSB believes that locomotive collision investigations continue to demonstrate that improvements are needed in the crashworthiness design standards of locomotives.

As a result of investigations of numerous accidents involving passenger trains over the past 20 years, NTSB has recommended that FRA or the passenger railroad industry:

(1) Prescribe regulations requiring emergency means of escape from railroad passenger cars;

(2) Prescribe regulations requiring emergency lighting for railroad passenger cars;

(3) Initiate studies to determine the relationship between passenger car design and passenger injuries;

[1] ''Analysis of Locomotive Cabs.'' (Report No. DOT/FRA/ORD–81/84, National Space Technology Laboratories, September 1982.)

(4) Prescribe regulations requiring passenger cars with secured seats and luggage retention devices;

(5) Apply system safety principles to the acquisition, design, construction and renovation of passenger cars;

(6) Prescribe regulations to require back-up power for emergency lights and doors that can be opened in the event of loss of power;

(7) Require that rail passenger equipment be fitted with roof escape hatches;

(8) Promulgate regulations to establish minimum standards for the interior of commuter cars so that adequate crash injury protection and emergency equipment will be provided;

(9) Promulgate regulations to establish minimum standards for the design and construction of interiors of passenger cars so adequate crash injury protection will be provided;

(10) Promulgate regulations to establish minimum safety standards for the inspection and maintenance of railroad passenger cars; and

(11) Amend the power brake regulations to provide appropriate guidelines for inspecting power brake equipment on modern passenger cars.

Accident/Incident Data

FRA has compiled a 10-year history of passenger equipment accidents/incidents that railroads have reported to FRA. FRA supplied this information to the Working Group and placed it in the docket. Table 2 summarizes the deaths and injuries reported to FRA by railroads for occupants of passenger trains during this 10-year period. The ''train accidents'' column of Table 2 includes all collisions, derailments, or fires involving passenger trains that resulted in more than $6,300 damage to on-track equipment, signals, track, track structure, or road bed. The ''grade crossing accidents'' column of Table 2 includes all reported impacts of a passenger train with cars, trucks, busses, farm equipment, or pedestrians at grade crossings. The ''non-accident passenger train incidents'' column of Table 2 includes all reports of injuries or deaths of passenger train occupants not caused by a train accident or grade crossing accident.

Figure 1 is a pie chart depicting the percentages of deaths to passenger train occupants caused by train accidents, grade crossing accidents, and non-accident incidents. Figure 2 shows the 10-year trend for each of these causes of deaths.

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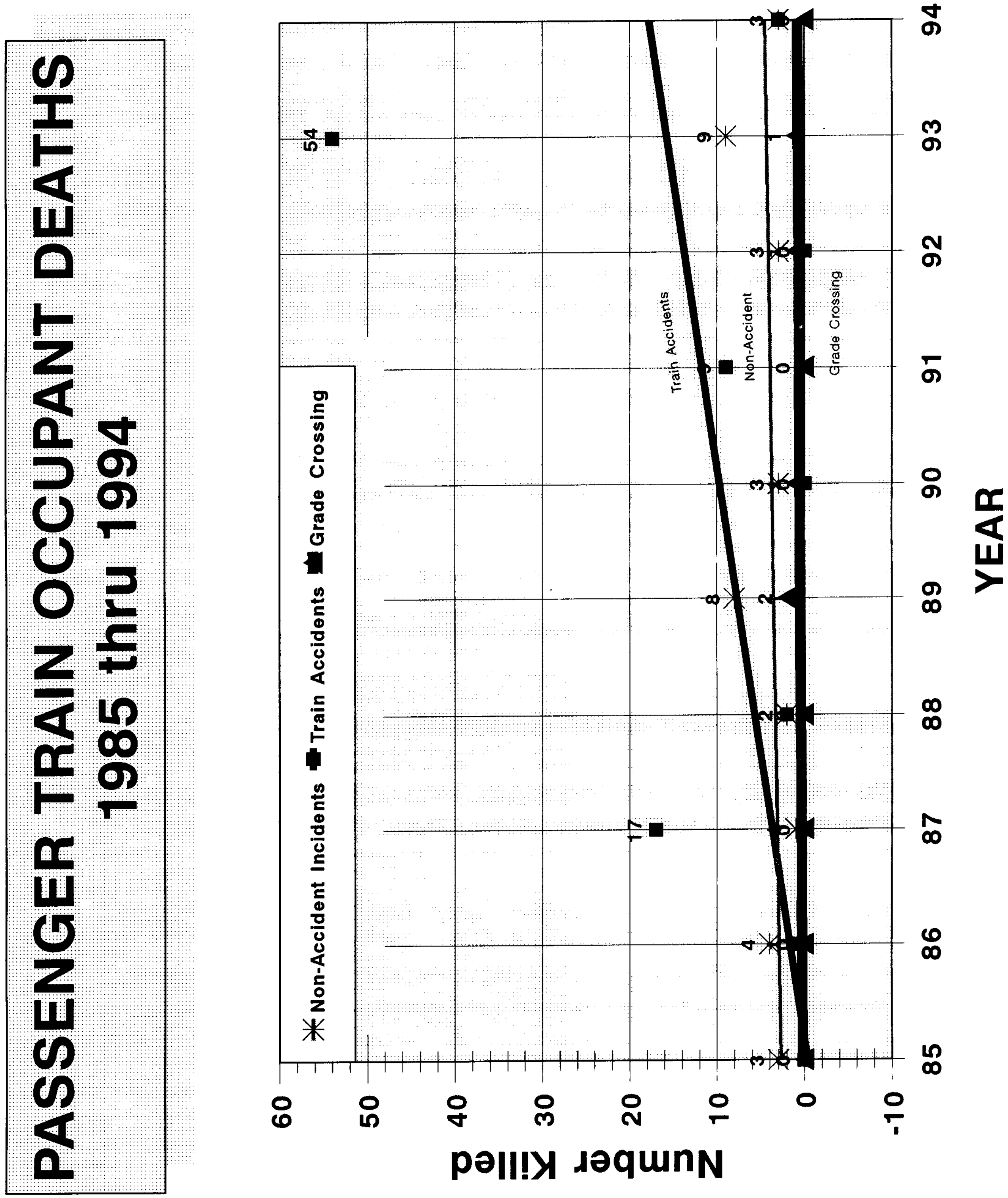
PASSENGER TRAIN OCCUPANT DEATHS
1985 thru 1994
Non-Accident Incidents
Train Accidents
Grade Crossing
Number Killed
60
50
40
30
20
10
0
-10
85
86
87
88
89
90
91
92
93
94
YEAR
Train Accidents
Non-Accident
Grade Crossing
54
17
9
8
4
3
2
1
0

Figure 2

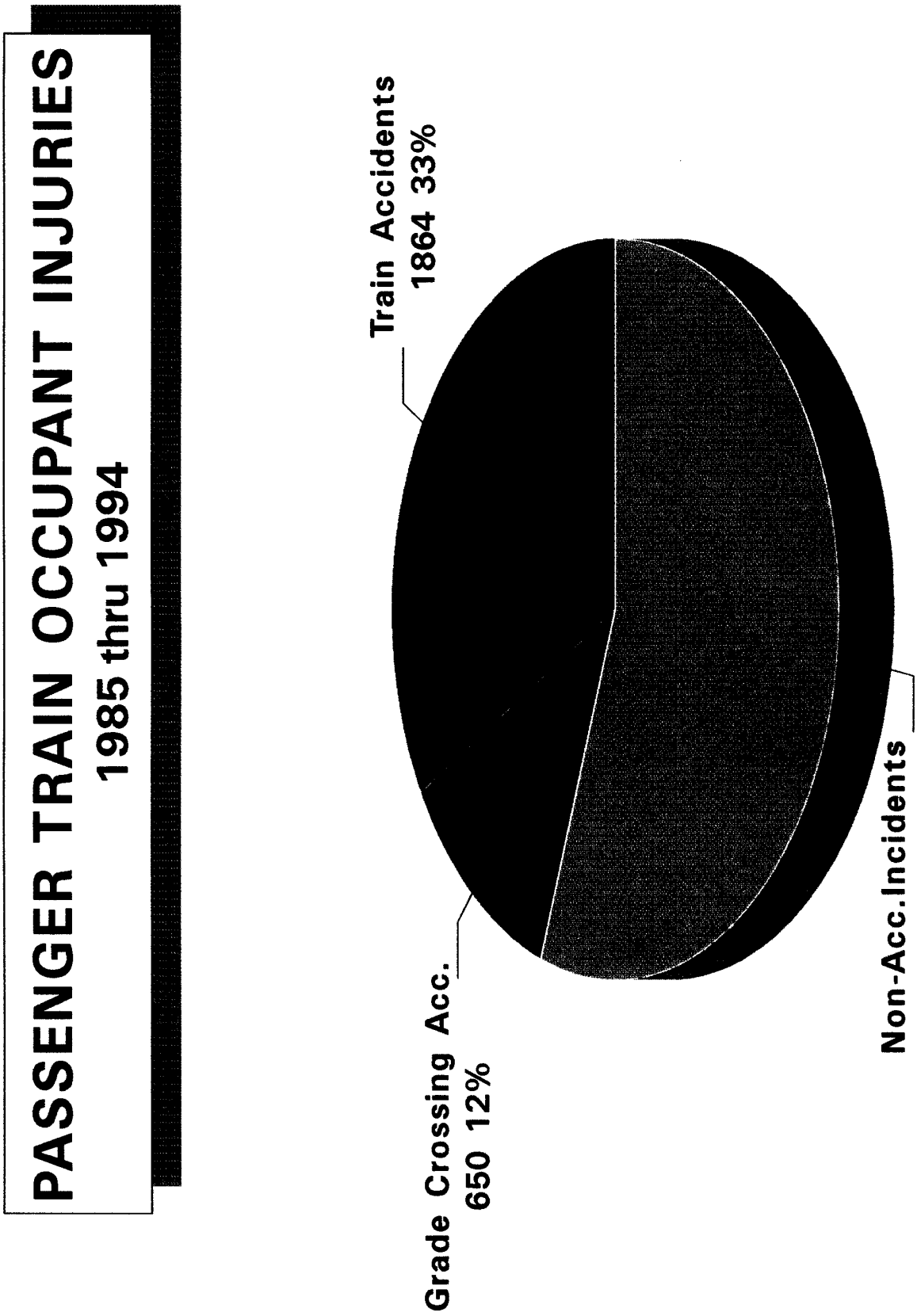

Figure 3

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Figure 3 is a pie chart depicting the percentages of injuries to passenger train occupants caused by train accidents, grade crossing accidents, and non-accident incidents. Figure 4 shows the 10-year trend for each of these causes of injuries to occupants of passenger trains. (Amtrak has noted that the showing of only 10 years of accident data is somewhat distorted in that two accidents account for over 80 percent of the deaths, and one of the accidents had substantial intermodal implications.)

Comment is requested regarding the significance of this data, elements of societal and railroad cost not included in the reported data, and factors to be considered in evaluating the risk of future catastrophic passenger train accidents.

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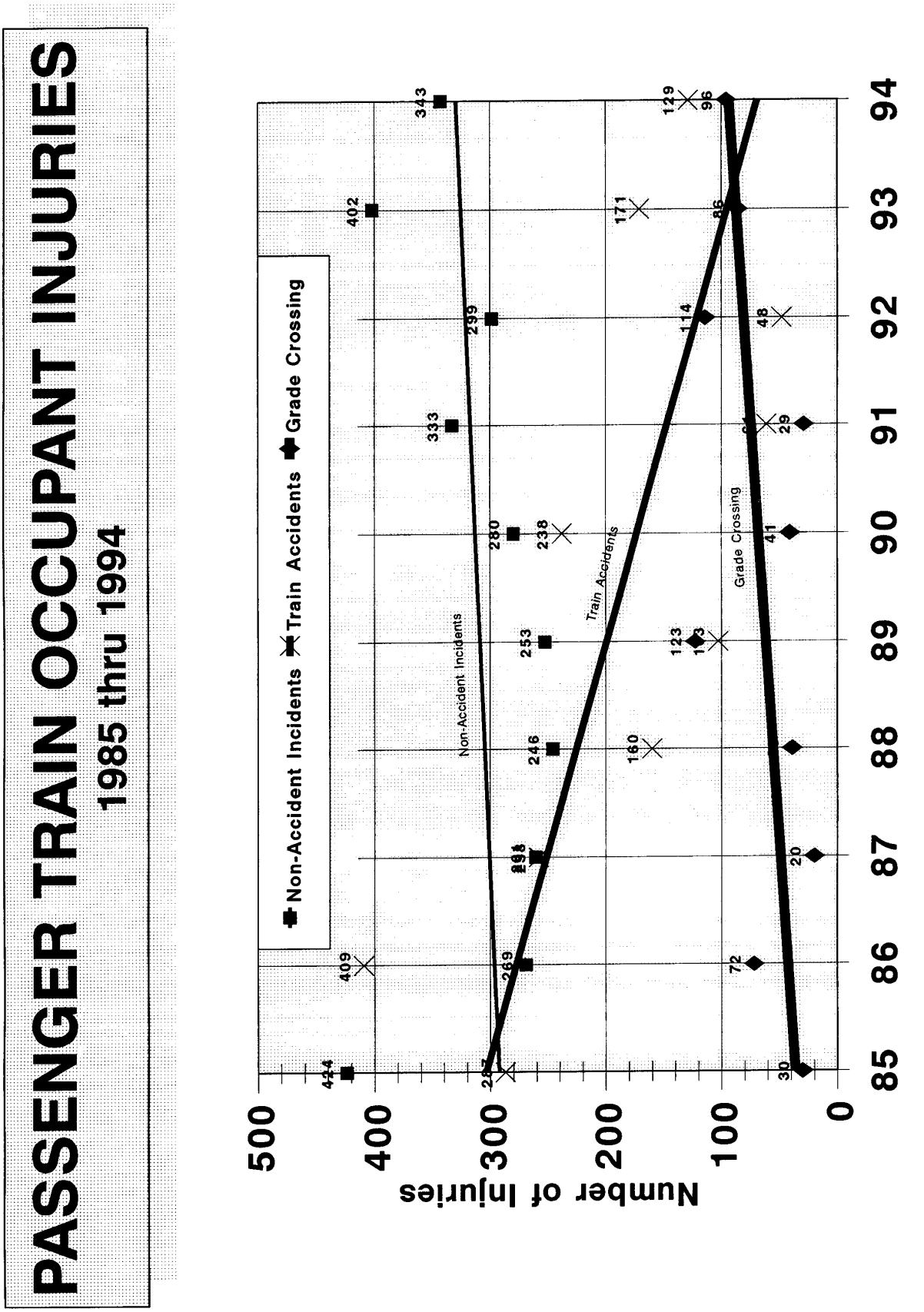

Figure 4

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Approach/Structure for Safety Standards

Scope and Context

FRA recognizes that safety standards that apply only to passenger equipment provide only a partial solution to improving rail passenger safety, and the best way to increase rail passenger safety is to keep trains on the track and spaced apart.

Keeping trains on the track and apart requires a systems approach to safety that includes railroad track, right-of-way, signals and controls, operating procedures, station- and platform-to-train interface design, as well as equipment. FRA has active rulemaking and research projects ongoing in a variety of contexts that address non-equipment aspects of passenger railroad system safety.

While reflecting the other aspects of passenger railroad system safety, this rulemaking will focus on:

(1) Equipment inspection, testing, and maintenance standards;

(2) Equipment design and performance standards;

(3) Platform- and station-to-train interface design and procedures to promote safe ingress and egress of passengers; and

(4) Other issues specifically related to safe operation of rail passenger service not addressed in other FRA regulations, proceedings, or program development efforts.

Existing Rail Passenger Operations

FRA intends to structure any proposed actions to cause a minimum of disruption to existing safe operations of passenger equipment. This notice is designed to bring to FRA's attention the special situations and problems confronting tourist and excursion railroads, private passenger car owners, commuter railroads, and the existing operations of Amtrak, which all have a long history of safe operation. FRA believes the first objective of this rulemaking should be to construct common sense minimum safety floors under these existing operations. To the extent new technology or innovative approaches might offer opportunities for improving safety performance on a cost-effective basis, FRA seeks the appropriate means to exploit these opportunities.

A common sense safety floor under existing safe operations includes a complete pre-departure (or daily) safety inspection of each departing train conducted by skilled inspectors, and a well-planned test and preventive maintenance program for safety-critical components of the system triggered by time, mileage, or some other reliability-driven parameter. (A ''safety critical component'' is a component whose failure to function as intended results in a greater risk to passengers and crew.) One of the main purposes of this ANPRM is to solicit information concerning:

(1) The steps necessary to conduct a complete pre-departure or daily safety inspection of the equipment;

(2) A means to demonstrate (*e.g.*, training, testing, supervision, certification) that safety inspectors have the knowledge and skills necessary to perform effective inspections or tests;

(3) The minimum planned or periodic maintenance program required to keep the equipment in safe operating condition;

(4) The frequency of required planned or periodic maintenance; and

(5) The costs and benefits associated with the requirements under consideration.

Special Consideration for Tourist and Excursion Railroads

Tourist and excursion railroads generally provide passenger rail service as entertainment or recreation, often at low speed on track dedicated to that service alone. FRA recognizes the extensive service provided by this growing sector of the railroad industry, and the need to tailor appropriate safety requirements to the level of risk involved. Accordingly, FRA will work to identify appropriate criteria for creating relatively simple system safety plans and programs for tourist and excursion railroads that recognize the special needs of this sector of the industry.

Speed and distance limits may be helpful to define tourist and excursion railroads excepted from many of the effects of any proposed passenger equipment safety standards. For instance, less stringent requirements might be applied to a railroad with a maximum operating speed of 30 mph and a maximum trip distance of 250 miles. In addition, operations segregated from the general railroad system may warrant consideration for less stringent requirements. FRA seeks comment on these proposed limits and, as noted earlier, will request assistance of an appropriately representative working group to develop these issues.

Special Consideration for Private Passenger Cars

FRA recognizes private passenger cars as another segment of the industry that may need special consideration. However, some important differences between the two types of operations exist that need to be taken into account. Private passenger cars often operate as part of freight, Amtrak, and commuter trains at track speeds over long distances. Providing regulatory relief to private passenger car owners through speed and/or distance limitations could severely restrict current operations. The host railroads often impose their own safety requirements on the private passenger cars and have a strong interest in any Federal safety standards that apply to private passenger cars. FRA intends to fully involve Amtrak, the American Association of Private Railcar Owners, and the American Public Transit Association (APTA) as standards for private passenger cars are developed.

Does the simple system safety program proposed for tourist and excursion railroads make sense for private passenger cars? If not, why? Do alternate means exist to provide regulatory relief to private passenger car owners without imposing restrictive speed and distance limits? How should railroad business or observation cars be treated?

New Rail Passenger Service or Systems

FRA intends the main thrust of any proposed safety standards for equipment design to be focused on new equipment and new rail passenger service. New equipment and new service present the opportunity to analyze the proposed equipment and its intended use to ensure that a systematic approach is taken to design safety into the operation. However, some of the safety enhancements that the final rule resulting from this ANPRM deem necessary for new equipment may have the potential to be applied to existing or to rebuilt equipment. Without such consideration, opportunities to increase safety that stand up to a cost/benefit analysis could be lost. In addition, not requiring rebuilt equipment to meet the latest standards provides an incentive to rebuild equipment rather than purchase new equipment, thus delaying the full benefit of the new standards.

Passenger Equipment Power Brakes

On September 16, 1994, FRA published a notice of proposed rulemaking on power brakes. 59 FR 47676. Much of the public testimony received in response to the NPRM emphasized the differences between freight operations and passenger operations, and the differences between freight equipment brake systems and passenger equipment brake systems. In light of this testimony, and because passenger equipment power brake standards are a logical subset of passenger equipment safety standards,

FRA will separate passenger equipment power brake standards from freight equipment power brake standards. The Working Group will assist FRA to develop a second NPRM that covers passenger equipment power brake standards. Since power brakes have already been the subject of a recent ANPRM, NPRM, and supplementary notice, FRA is not seeking additional information on passenger equipment power brakes, and they will not be addressed in this ANPRM.

Regulatory Flexibility

FRA conducts this proceeding to determine how best to meet the need to assure the public of continued safe operation of passenger trains in a more complex operating environment. Although FRA is required by law to issue minimum standards for passenger equipment safety, FRA recognizes that the level of detail properly embodied in regulations can and should be powerfully influenced by the presence of voluntary standards adhered to by those participating in their development. FRA encourages the formation of a rail passenger industry forum (similar to AAR in some functions, but more representative of all segments of the rail passenger industry) to establish supplementary safety standards developed through industry consensus. Such an organization could reduce the need for detailed Federal regulations beyond such basic requirements as may be appropriate to provide for safety.

FRA desires to structure regulations to provide the flexibility necessary for introduction of new technology or new operating concepts that could improve service and safety. Use of performance standards—where feasible—can best achieve this objective.

FRA desires this ANPRM to stimulate discussion focused on how FRA can meet its responsibility to the public while imposing a minimum regulatory burden on the rail passenger industry. Does the industry have plans to establish a forum with the charter and authority to develop safety standards by consensus for the industry, or can an existing organization serve this function? If such a group can be established, what safety concerns have a high potential of being resolved through industry consensus and voluntary action? What time frame would be required to develop industry safety standards by consensus? What role could/should rail labor organizations, equipment builders, component suppliers, and state agencies play in developing these safety standards? What assurances could be provided that the industry would adhere to these safety standards? What role could/should FRA play to assist the industry in developing these standards? When consensus cannot be reached or is not adequate, and Federal regulations are required, how can the flexibility/adaptability of the regulations to meet a dynamic operating environment and changing technology be maximized? To what extent might development of voluntary industry guidelines limit the need for highly detailed or prescriptive Federal standards?

Discussion of Issues

An introductory discussion of several concepts—crucial to rail equipment safety—may convey a better understanding of the approach FRA is considering to develop safety standards for new passenger equipment. These concepts are:

(1) system safety plan and program;

(2) rail vehicle crashworthiness;

(3) crash energy management;

(4) suspension system performance; and

(5) wheel thermal stress.

System Safety Plan and Program

The heart of the approach to new passenger equipment safety standards will be a system safety program. A system safety plan is a document developed by the operator—with a large input from the builder of new equipment—to describe the system safety program. The plan should lay out a top-down approach to how the system—including the equipment, the inspection, the testing and maintenance program, the routes over which the equipment will operate, and the operating rules that will be applied to it—will be designed, tested, and verified to meet all safety requirements and provide a safe operation.

A true and complete system safety approach begins at the top level of the system—in this case, the ''system'' is the entire railroad operation. For the purpose of risk analysis, the railroad system must be broken down into its component systems. No one—or right—way exists to perform this breakdown. It can be done many ways. Figure 5 is just one logical example.

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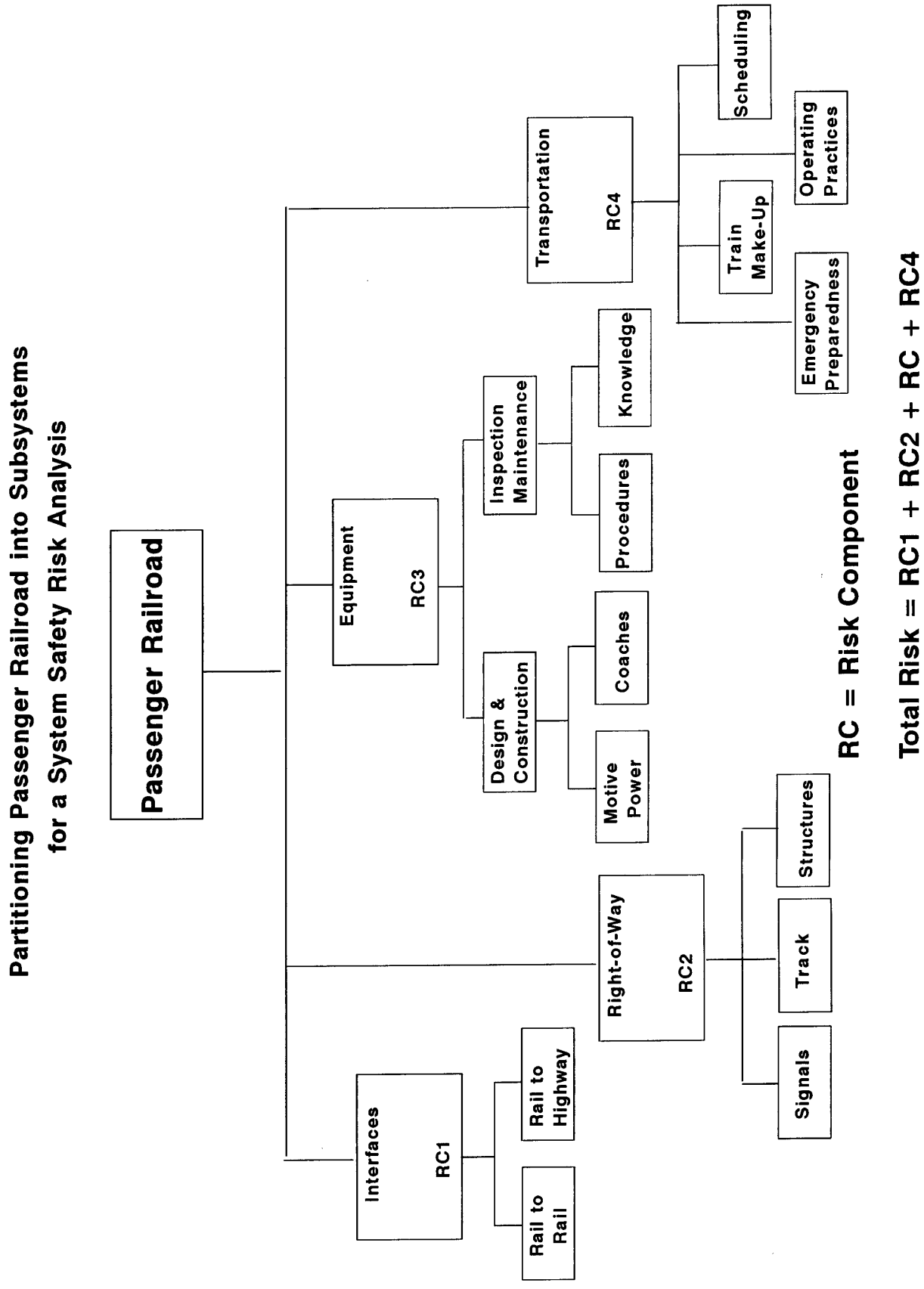

Figure 5

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Many passenger railroads operate at least partially as a tenant on the right-of-way and property of another railroad. In this case, the passenger railroad may have little or no control under the contractual terms of the tenancy arrangement, and little or no prospect of gaining future control over some of the major risk components of the risk analysis. The actions of the passenger railroad cannot change these risk components, and for the purpose of performing a system safety analysis, they must remain fixed and be accepted as a given unless subject to separate changes in Federal standards.

For example, a passenger railroad that operates largely as a tenant would have little or no control over the Interfaces (RC1) and Right-of-Way (RC2) risk components. By holding these risk components fixed, the system safety approach degrades to a systems approach applied to the remaining two subsystems rather than to the railroad as a whole. The ''systems'' methodology still has considerable merit when applied to the remaining subsystems, but a true system safety approach cannot be applied to a system that has major risk components that are constrained. This analysis could help define the equipment crashworthiness features required for its intended purpose, or the operational limitations needed to improve or retain safety levels.

What practical constraints must be taken into account when applying a system safety approach to passenger railroads? When all practical constraints are taken into account, how should the system safety approach be applied to help develop passenger equipment safety standards?

The system safety plan can range from a relatively simple document—for conventional equipment being procured to continue an existing service—to a detailed document laying out a comprehensive approach for designing, testing, and operating state-of-the-art high-speed passenger rail systems. The outline of the system safety plan given in Appendix A applies to the procurements of new high-speed trainsets. For the less complex procurements of replacement equipment for existing service, the plan should be simplified and tailored to fit the particular need. It should be emphasized that the purpose of the system safety plan is to force a thorough thought process to ensure safety is optimized.

The purpose of a formal system safety program, among other things, is to ensure safety is adequately addressed during the design of passenger trainsets and during the development of the inspection, testing, and maintenance program that supports these trainsets. The system safety program also permits other high risk components in the system to be identified, including operational aspects and the signaling and grade crossing technology employed. The system safety program requires:

(1) Analysis of the trainset design for identification of safety hazards (risk assessment) and systematic elimination or reduction of the risk associated with these hazards (mitigating actions);

(2) Analysis of operational aspects for safety hazards and, where feasible, systematic elimination or reduction of the associated risk of these hazards; and

(3) Development of the inspection, testing, and maintenance concept in a step-by-step process to determine the procedures and maintenance intervals necessary to keep the trainset operating safely.

MIL–STD–882C defines the approach taken for system safety programs used by the United States military. A copy has been placed in the docket. This document is an excellent reference for how to plan and conduct a system safety program.

FRA solicits comments from all segments of the rail passenger industry on formal system safety programs. FRA is particularly interested in ways to tailor the program to meet the multitude of individual situations that exist in the industry. The purpose of the program is to ensure that safety is planned into new systems. FRA is searching for ways to ensure the system safety program is good business—not a regulatory burden. FRA seeks to determine the process necessary to ensure system safety is good business and allows flexibility in tailoring the planning to the level of the safety need.

Are any system safety plans currently in use? How much would it cost (in terms of time and effort) to update existing or develop new system safety plans? On average, approximately how often would system safety plans have to be updated? How would system safety plans improve safety? Specifically, what areas of safety would be improved, by how much, and why? Please provide copies of any studies, data, arguments, or opinions which support your answer.

Rail Passenger Equipment Crashworthiness

Since vehicle crashworthiness is one of the means to reduce safety risks, it is therefore a major subset of the system safety program. ''Rail passenger equipment crashworthiness'' means a system of interrelated vehicle design features intended to maximize passenger and crew survivability of collisions and derailments. Vehicle crashworthiness is the last line of defense or protection in the event all other precautions fail, and a serious accident occurs.

A risk assessment done by Arthur D. Little, Inc., (ADL) for Amtrak regarding operation of high-speed trainsets in the Northeast Corridor points to the need for attention to passenger equipment crashworthiness by showing that the following types of collisions could occur on the Northeast Corridor:

(1) Loaded freight equipment or locomotives might derail on adjacent track, overturning and fouling a high-speed main line. (The derailment could be caused by defective freight equipment or vandalism.)

(2) The braking system on a freight train or light locomotives could fail to operate properly, causing that consist to split a switch and occupy a high-speed main line immediately ahead of an oncoming high-speed passenger train.

(3) A high-speed passenger train could derail on a curve due to a track defect (*e.g.*, a broken rail initiated by the last freight movement) and strike a fixed object such as an abutment or pier.

Scenarios with substantially similar consequences are possible even after the installation of an enhanced train control system. These are the types of scenarios feared by freight railroads that allow passenger trains to operate on their systems, and have led the freight railroads to demand insulation from excessive tort liability.

To ensure crashworthiness, passenger equipment must:

(1) Maintain an envelope or minimum volume of survivability for passengers and crew which resists extreme structural deformation and separation of main structural members;

(2) Protect against penetration of the occupied compartments;

(3) Protect the occupants from being ejected from occupied compartments; and

(4) Protect the occupants from secondary impacts with the interior of the occupied compartments.

To make a passenger train accident survivable (1) the spaces occupied by people must be strong enough not to collapse, crushing the people; and (2) the initial deceleration of the people must be limited so they are not thrown against the interior of the train with unsurvivable force. Achieving these general objectives can be the most difficult challenge facing equipment designers.

Crash Energy Management

Crash energy management is a design technique to help equipment designers meet this challenge. The basic concept embodied by crash energy management is that designated sections in unoccupied spaces or lightly occupied spaces are intentionally designed to be weaker than heavily occupied spaces. This is done so that during a collision, portions of the unoccupied spaces will deform before the occupied spaces, allowing the occupied spaces of the trainset initially to decelerate more slowly and minimize the uncontrolled deformation of occupied space.

The docket contains two technical papers [2] by the Volpe Center that analyze the merits of crash energy management design techniques. These studies evaluate the effectiveness of alternative strategies for providing crashworthiness of passenger rail vehicle structures and interiors at increased collision speeds by comparing them to a design permitted by current standards.

Current regulations permit cars of essentially uniform longitudinal strength. Simplified analysis done using a lumped-mass computer model and an idealized load-crush curve predicts this type of design to be effective in maintaining survivable volumes in coaches for train-to-train collision speeds up to 70 mph. Further analysis needs to be done using a more complex distributed-mass computer model and a widely accepted load-crush curve to refine this prediction.

Using a simplified lumped-mass computer model, the assumed uniform longitudinal strength causes the predicted structural crushing of the train to proceed uniformly from the front to the rear of the train, through both the unoccupied and occupied areas of the train. Using a distributed-mass computer model, structural crushing of uniform strength equipment tends to be predicted to occur at both ends of the car, more in agreement with observations from actual accidents.

The crash energy management design approach results in varying longitudinal strength, with high strength in the occupied areas and lower strength in the unoccupied areas. This approach attempts to distribute the structural crushing throughout the train to the unoccupied areas to preserve the occupant volumes and to control and limit the decelerations of the cars. The crash energy management approach has been found to offer significant benefits. (Amtrak has noted that while this concept seems to work well for single-level equipment with vestibules at each end, its application to a bi-level design—which is now Amtrak's long distance standard—was not considered in these publications.)

The interior crashworthiness study evaluates the influence of interior configurations and occupant restraints on injuries resulting from occupant motions during a collision. For a sufficiently gentle train deceleration, compartmentalization (a strategy for providing a ''friendly'' interior) can provide sufficient occupant protection to keep widely accepted injury criteria below the threshold values applied by the automotive industry.

The Volpe Center reports show that, if installed properly and used, the combination of lapbelts and shoulder restraints can reduce the likelihood of fatality due to deceleration to near-certain survival for even the most severe collision conditions considered. However, individual restraints may have limited practical value on a train, where mobility within the vehicle is an important attribute of service quality, and times of most significant risk cannot be predicted. The most likely application of personal restraints could be in a control compartment located at the front of the train.

The value of a crash energy management design is not in the energy absorbed—only a few percent of the kinetic energy of a high-speed collision can be absorbed in a reasonable crush distance. The real safety benefit comes from allowing the occupied spaces to decelerate more slowly, while decreasing the likelihood that occupied spaces will fail in an uncontrolled fashion. If the occupied spaces are initially decelerated more slowly, people will be pinned to an interior surface of the trainset with less force, resulting in fewer and less severe injuries. Once pinned against an interior surface, occupants can then sustain much higher subsequent decelerations without sustaining serious injuries. Also, since unoccupied space is intentionally sacrificed, less occupied space will be crushed during the collision.

Crash energy management design involves a system of interrelated safety features, in addition to controlled crushable space, that could include: (1) design techniques to keep the trainset in line and on the track for as long as possible during the initial impact;

(2) Interior design that eliminates sharp corners and that pads, with shock absorbing material, surfaces that are likely to be struck by people thrown about by a collision;

(3) Attachment of interior fittings and seats with sufficient strength not to fail and thereby cause additional injuries; and

(4) A crash refuge for the vulnerable crew members in the cab.

To help maintain survivable volumes in passenger equipment, particularly during collisions at higher closing speeds, minimum standards for the following structural design parameters would be needed:

(1) Anti-buckling to keep the train in line and on the track for as long as possible after impact. (Prevention of buckling is not always possible, but it can be delayed);

(2) End structures and anticlimbers to prevent override and telescoping;

(3) Corner posts to deflect glancing collisions;

(4) Rollover strength;

(5) Truck to car body attachment; and

(6) A control cab crash refuge.

''Anti-buckling'' refers to trainset design techniques intended to prevent to a certain force level or delay both vertical (override) and/or lateral buckling. The current state-of-the-art in passenger rail equipment design will impose limitations on the extent to which anti-buckling can be achieved. (Devices that meet the anti-buckling requirements have not been developed or tested. Those devices that have been evaluated by the French National Railroad in actual crash testing of their latest TGV bi-level design are intended to prevent override similar to those devices currently required on North American equipment.)

Standards would be necessary to address the general design parameters to limit decelerations of passengers and crew, as well as flying objects striking passengers and crew. One possible approach is to define, under the dynamic conditions created by a specific collision scenario:

(1) Limits on the maximum and average deceleration of the crew in the control cab for the first 250 milliseconds after impact (assuming the crew had anticipated the collision and placed themselves in the crash refuge);

(2) Limits on the maximum and average deceleration of passengers in passenger cars for the first 250 milliseconds after impact;

(3) Minimum longitudinal, lateral, and vertical seat attachment strength;

(4) Minimum longitudinal, lateral, and vertical fitting attachment and

[2] ''Evaluation of Selected Crashworthiness Strategies for Passenger Trains.'' D. Tyrell, K. Severson-Green & B. Marquis, U.S. Department of Transportation Volpe National Transportation System Center, January 20, 1995; ''Train Crashworthiness Design for Occupant Survivability.'' D. Tyrell, K. Severson-Green & B. Marquis, U.S. Department of Transportation Volpe National Transportation System Center, April 7, 1995.

luggage stowage compartment strengths; and

(5) Minimum padding requirements for seat backs and interior surfaces. Achieving the second item requires careful design to create a differential in structural strength between passenger seating areas (''occupied volume'') and certain other areas that would be allowed to fail before the occupied volume. By contrast, permitting uniform rigidity throughout the trainset could result in unacceptably high initial accelerations of the passenger compartments and possibly make the accident non-survivable.

Suspension System Performance

A passenger train suspension system's purpose is to follow the track at all speeds of operation and to minimize the vibrations and motions transmitted to the passengers. An unsafe condition occurs whenever the suspension system:

(1) Allows a wheel to lift from a rail;

(2) Allows a wheel to climb over a rail;

(3) Transmits excessive vibration or motion to the passengers;

(4) Exerts excessive force on a rail causing it to shift or roll; or

(5) Allows unstable lateral hunting oscillations of a truck or wheelset.

The vehicle no longer safely follows the track when a wheel either climbs the rail or lifts from the rail. Wheel climb may occur in curves where large lateral forces are generated as the truck negotiates the curve. These lateral forces, particularly in combination with changes in vertical wheel load caused by track surface variations, can cause the wheel to climb the rail.

The ratio of lateral to vertical forces acting on a wheel (L/V ratio) is generally taken as a measure of the proximity of the wheel to derailment. If L/V remains less than Nadal's limit, which is 0.8 on clean, dry, tangent track, then wheel derailment is remote.

Whenever insufficient vertical force exists to support the lateral force acting on the rail, wheel climb can potentially occur under a broad range of track alignment and surface geometry combinations. If a wheel lifts due to excessive rolling, twisting, or other motions of the car body or truck, it will likely return to the rail as long as no excessive lateral forces exist to push it out of line with the rail. However, wheel lift represents a potentially unsafe condition, because there is no certainty of the absence of a strong lateral force that prevents the wheel's return to the rail. To assure that the wheel remains in contact with the rail, each wheel must maintain a minimum vertical load of 10 percent of the nominal static wheel vertical load on straight, level track.

Excessive lateral forces acting on a rail can cause the rail to rollover and/or shift outward, allowing a wheelset to drop between the rails. For this to happen, all wheels on one side of a truck must be pushing outward on a rail. The railroad industry generally accepts that if the ratio of the sum of the lateral forces to the sum of the vertical forces exerted by all the wheels on one side of a truck on the rail is less than 0.5, there is little danger of rail rollover or shift.

Excessive lateral forces, induced by a car traversing the track, can also cause the track as a unit to shift laterally on its ballast. To assure that the track does not get pushed out of alignment by a train, the ratio of the net lateral load exerted by each axle to the net vertical load exerted by that axle must remain less than 0.5.

Passenger ride quality is generally a comfort rather than a safety concern, unless ride quality deteriorates so that passengers are injured by a rough ride. To provide minimum protection for passengers from injuries due to being thrown about by excessive car body motions, FRA believes that equipment should be designed such that car body lateral accelerations are less than 0.30g peak-to-peak and the car body vertical accelerations are less than 0.55g peak-to-peak, while the square root of the sum of lateral accelerations squared plus the vertical accelerations squared (the vector sum) is less than 0.604g peak-to-peak. Compliance with this design standard would typically be established as part of an equipment qualification program.

Sustained lateral oscillations of the truck (''truck hunting'') can lead to derailment. Sensor technology allows the lateral accelerations of the truck to be constantly monitored under service operating conditions. FRA proposes that trucks be equipped with accelerometers to monitor for hunting so that corrective action can be taken when hunting is detected. FRA proposes to define ''hunting'' as a lateral acceleration of the truck frame in excess of 0.8g peak-to-peak repeated for six or more cycles.

Recent experience with the Massachusetts Bay Transit Authority's new bi-level commuter cars demonstrated the close relationship between suspension system performance and track geometry. The suspension system must be able to perform at low speed over track with relatively large surface variations, such as 3-inch cross level deviation, while maintaining stability and smooth ride quality at maximum service speeds. FRA is concerned that suspension systems of all new passenger equipment maintain passenger safety over their entire range of intended operating conditions. The suspension system requirements, such as wheel equalization, must therefore be established for all equipment and service based on analysis from the system safety program. Compliance with this requirement would typically be established as part of an equipment qualification program.

Wheel Thermal Stress

FRA is concerned that frequent, repeated braking from high speeds could induce thermal damage in wheels that can result in cracking and potential wheel failure in service. New high-speed passenger equipment may include blended brakes which combine dynamic and friction braking (either on tread, disk, or both). Such blended systems typically maximize the available dynamic brake portion at all speeds to minimize wear and thermal input to the wheels, discs, and friction brake components. Wheel slide detection and prevention is typically available to minimize loss of wheel to track adhesion of individual wheelsets during deceleration.

Thermal demand on wheels due to frictional heating by tread brakes can be substantial when loaded cars are operated at high braking ratios. This scenario may apply to blended systems which use tread brakes more extensively to make up for the loss of failed dynamic brakes. Recent research has shown that for wheels on some types of passenger equipment operated at weights of 60 to 80 tons per car, at speeds from 80 to 100 mph and retardation rates of 2 to 3 mph/second, the brake horsepower which the wheel must absorb can flash-heat a shallow layer of the rim to a temperature high enough to damage the metal and possibly cause a change in its mechanical properties.

An operational test under simulated service conditions was conducted in October 1992 using wheels instrumented with thermocouples to measure temperatures in the rim. The test train was operated at near-empty weight (61 tons per car) and at speeds up to 100 mph. Wheel temperatures were measured during speed reductions and stops, at retardation rates from 1.3 to 1.9 mph/second, with tread braking only. Temperatures as high as 1000 °F. (538 °C.) were measured by the thermocouple closest to the tread surface (approximately 0.1 inch below the tread surface). The S-plate wheel

design common in commuter service was used to obtain these results.

Current Federal safety standards for locomotives, under which MU cars are covered, define a defective wheel due to cracking as any wheel with ''[a] crack or break in the flange, tread, rim, plate, or hub.'' 49 CFR 229.75(k). Although the AAR Manual of Interchange Rules (1980) applies only to interchange freight service, it is often applied to equipment in passenger service and defines a wheel to be ''condemnable at any time'' if it contains ''thermal cracks: transverse cracks in tread, flange or plate * * *'' (Rule 41—Section A). The 1984 edition of the same manual adds a qualification as follows: ''Thermal or heat checks: Brake shoe heating frequently produces a fine network of superficial lines or checks running in all directions on the surface of the wheel tread. This is sometimes associated with skid burns. It should not be confused with thermal cracking and is not a cause for wheel removal.''

Heat checking is recognized by experienced failure analysts as a phenomenon distinct from thermal cracking. In the absence of other effects, heat checks are believed—at worst—to progress to minor shelling or spalling which can be detected and corrected well before they cause a risk to operational safety. However, recent research has shown that heat checks are unsafe if the affected wheel has also been subjected to rim stress reversal.

Wrought wheels used in commuter service are rim-quenched after forming to create a layer of residual compressive stress in the rim extending inward from the tread. Depths of penetration of the compressive layer are estimated at 1.2 inches (30 mm) by finite element simulations of the quenching process. This residual compressive stress is beneficial since compression tends to force cracks closed and retard crack growth.

Repeated wheel excursions to high temperatures can result in stress reversal in the wheel rim, especially in shallow layers near the tread surface where cracks are likely to originate. Estimates of residual stresses in new (as manufactured) wheels were obtained by application of an advanced finite element-based technique which uses stresses due to quenching as an input state and then calculates the final residual stress state after repeated simulated stop-braking from 80 mph at 2 mph/second. The results of this simulation predict stress reversal (reversal from circumferential compression due to quenching to residual tension) in a layer approximately ⅝-inch (16 mm) deep from the surface of the wheel tread.

This research causes FRA concern regarding the possibility of wheel failures due to cracking initiated in overbraked wheels. A visual estimation of thermal damage is difficult in the absence of cracks. Conventional practices based on wheel discoloration have been discredited as being unreliable indicators of wheel thermal damage. Within the limits of current sensor technology, the best means available to prevent wheel failure resulting from thermal damage is careful brake system design to limit the frictional heating of wheels to within safe limits.

Ad hoc recommendations identify the onset of thermal damage at wheel tread near surface temperatures of 600 to 700 °F. In order to better quantify the effect of temperature on wheel integrity, several metallurgical experiments of wheel material were done. The base material condition of a non-thermally abused wheel rim is normally a pearlitic microstructure hardened to approximately RC 35. Metallurgical examination near the treads of thermally cracked wheels shows a spheroidized microstructure with an increased hardness for a layer approximately ½-inch deep.

This microstructure form is usually associated with formation by a sequence of heating to extremely high temperatures (above 1400 °F.) followed by rapid quenching to produce martensite (an undesirable steel microstructure), followed by tempering at high temperature (800 to 900 °F.) to transform martensite to spheroidite.

Since field data indicated that wheel temperatures were not reaching the elevated levels necessary to produce the laboratory material transformation, more work was done to try to explain this inconsistency. This laboratory work involved testing of wheel steel samples that were exposed to combined rapid heating and high compression. The combination of heat and compression was used to simulate the environment of material near a wheel tread surface that is subjected to combined stop-braking (heat) and rail contact (compression). The results of these laboratory tests showed that the microstructure of the material can transform at temperatures below 1200 °F if the material is also compressed, and the transformed microstructure can have an appearance similar to that of spheroidite.

Based on this research, FRA is concerned that passenger equipment in service with frequent stops from high speeds can over brake wheels. Of particular concern is equipment that utilizes a high percentage of tread braking and blended brake systems that require a wheel tread friction brake to carry a greater portion of the braking load when the dynamic portion of the brake fails.

Disc brakes are commonly used on high speed passenger trainsets as a companion to the dynamic brake system to avoid some of the thermal problems that can be caused by tread brakes. Disc air brakes provide fail-safe braking and high levels of retardation. Disc brakes offer several advantages as opposed to tread brakes. Disc brakes are less sensitive to moisture and have more uniform coefficients of friction at high speeds. Disc brakes can also improve ride quality due to reduced jerk and less noise. In addition, disc brakes require lower brake forces than tread brakes, thus permitting smaller cylinders and lighter rigging. But the main advantage of disc brakes is that they allow braking heat to be dissipated using a heat sink other than the wheel.

Brake discs can be mounted directly to the wheel with bolts or can be axle mounted. Axle mounted discs are installed on the axle between the wheels. The disc consists of two friction rings interconnected by cooling fins, which exist in several forms, including a vane design and a ventilated design. The vanes and fins increase the convective cooling of the disc as it rotates. Retarding force is provided by means of a caliper—actuated by a pneumatic cylinder—that clamps brake pads against the rotating disc.

Substantial research and development effort has gone into the design of disc brakes, especially for European high-speed trains. While disc brakes are well suited for high-energy dissipation and high-temperature events, disc pad wear and thermally damaged discs are two of the cost drivers in maintaining high-speed passenger trainsets.

One manufacturer of disc brakes has recommended limiting disc pad temperatures to 750 °F. to prevent thermal damage to the wheels or brake pads during stop distance tests of a European trainset to be tested in the Northeast Corridor.

Based on these concerns and research, FRA wishes to explore requiring each railroad establish the maximum safe speed that each type of its equipment can be operated over a specific route, when the dynamic portion of the brake has failed or is disabled. These speed limits should be established as part of the system safety program.

Another possible concern involving disc brakes is wheel slide. Due to the high retardation rate that can be achieved with disc brakes, failure of the

wheel slide protection system can cause the formation of martensite in the vicinity of the wheel/rail contact region. This can lead to wheel mechanical damage similar to that caused by excessive tread braking.

What steps have the passenger rail industry taken to prevent wheel damage due to over braking? What wheel thermal problems continue to occur in the field? How should thermal limits on wheels and discs be handled in safety regulations?

Tiered Equipment Design Standards Based on Risk Analysis

FRA believes there may be merit in a tiered approach to equipment safety standards based on a risk analysis of the operating environment in which the equipment will operate. (Tiers are levels of design requirements determined by system safety considerations.) The advantage of such an approach is that it takes into account system safety factors other than equipment design that reduce safety risks. The tiered approach also readily lends itself to amending the safety standards for a new type of service—a new tier could be added without changing the existing standards. The disadvantage is that such an approach can rapidly become very complex. Further, when applied to design performance criteria for new equipment, an excessively tiered approach could result in purchases of equipment that might be severely limited with respect to its future uses and marketability.

For simplicity, FRA had initially envisioned tiered safety standards based on operating speed alone. FRA suggested the following logical break points to the Working Group for tiered equipment standards:

- Level 1—up to 30 mph—Tourist and Excursion Railroads.
- Level 2—up to 79 mph—Conventional Passenger Operations.
- Level 3—up to 125 mph—Intermediate Speed Operations.
- Level 4—up to 150 mph—High Speed Operations.

However, discussions with the Working Group highlighted several objections to this approach based on tiering by maximum operating speed alone. Conventional intercity passenger trains operated by Amtrak, powered by diesel-electric locomotives, frequently operate at speeds up to 90 mph, and commuter railroads provide ''conventional'' service at speeds up to 110 mph. Both Amtrak and commuter railroads expressed a strong opinion that their ''conventional'' equipment had proven itself capable of operating safely at ''intermediate'' speeds.

The majority of the Working Group has expressed a preference for only two tiers of equipment standards for intercity and commuter service, and for basing the criteria for distinguishing between the tiers on a system safety approach rather than solely on operating speed. As a result, the discussion of tiered safety standards that follows centers around a two-tiered approach. FRA recognizes that approaches containing more than two tiers may be desirable. Accordingly, FRA will carefully consider alternate approaches received in response to this ANPRM that contain more than two tiers of safety standards. Such alternate approaches should attempt to explain the safety/economic advantages of safety standards based on more than two tiers, and should attempt to define and state the logic behind the criteria used to distinguish between these tiers. (A formal vote by the Working Group on the number of tiers to use has not been taken. Amtrak can envision the need for at least three tiers, as specified in the introduction of Appendix B.)

The basic concept behind a system safety approach for tiering is that safety risks can be reduced by controlling any number of operating environment factors in addition to equipment design, inspection, testing, and maintenance. Factors that should be considered when performing a risk analysis to determine the correct tier of equipment requirements include:

(1) Maximum operating speed;
(2) Presence of at-grade rail crossings;
(3) Type of protection at highway grade crossings;
(4) Number of at-grade rail crossings;
(5) Current and projected train traffic densities;
(6) Capabilities of current and planned signal systems;
(7) Tracks shared with freight trains;
(8) Shared rights-of-way with freight or light rail type operations;
(9) Wayside structures; and
(10) Special right-of-way safety features such as track separation distance, barriers or track obstruction detection systems.

If the risk analysis shows that the type of operation or non-equipment safety features result in a very low risk operation, less restrictive—or Tier I—equipment safety standards would be appropriate. If the risk analysis shows a higher risk of operation due to higher operating speeds, traffic densities, or some other factor, Tier II equipment safety standards—which reduce risk more than Tier I standards—would be used. A good example of a risk analysis of a passenger railroad operating environment is provided in a report prepared by ADL under contract to Amtrak, entitled ''Northeast Corridor Risk Assessment'' (August 26, 1994). A copy of this report is included in the docket.

One of the factors that will make an approach to equipment safety standards based on risk assessment difficult to implement is that the industry must quantify and make public the degree of risk that is considered acceptable. Is the level of risk per billion highway passenger miles the criterion? Is the level of risk per billion passenger miles in scheduled air carrier service the criterion?

FRA seeks industry comments on a tiered approach or alternate approaches to passenger equipment safety standards. Does the initial approach of speed break points suggested by FRA make sense? What would be the impact of imposing this set of break points? What existing commuter operations would be caught between conventional and intermediate speed standards? Should FRA grandfather the current equipment providing this service and apply the more stringent standards only to the new or refurbished equipment procured to provide service in this speed range? Should FRA also grandfather all of Amtrak's equipment providing service at speeds greater than 79 mph? Should other sets of break points be considered? If so, which and why? What should be the major change in equipment safety standards at each break point? What problems could be caused by the approach to grandfathering current equipment operating in each speed range?

Rather than the initial FRA approach, does the concept of tiered standards based on the outcome of a risk analysis make sense? Would such an approach be too complex? Is the industry willing to undertake the thorough risk analysis process necessary to make such an approach effective? What would the industry use as an acceptable level of risk to determine break points between tiers of requirements?

The discussion of possible safety standards that follows is based on a two-tiered approach. The question of exactly how to draw the line between the two tiers of requirements is not answered. For purposes of discussion, Tier I requirements are broadly applied to operations with a known low risk or record of proven safe operation, *e.g.*, passenger equipment operating at speeds of 110 mph or less. Tier II requirements are broadly applied to higher risk operating environments, *e.g.*, Amtrak's planned operation at 150 mph in the Northeast Corridor or perhaps

cab-car-forward operations under some sets of higher risk operating conditions.

Although the discussion of possible safety standards that follows is based on a two-tiered approach, this does not mean FRA assumes a proposed rule will be based on two tiers. A discussion of a two-tiered approach serves only as the simplest means to present the concept of tiering. FRA remains open to alternate concepts based on more than two tiers, or concepts that define the break point between two tiers differently.

FRA recognizes the need to handle special equipment such as that operated by tourist and excursion railroads and private passengers cars outside this two-tiered system.

FRA also recognizes the possible future need for a third tier for equipment intended to operate at very high speeds—in excess of 150 mph. However, operations at such speeds would be considered only on dedicated rights-of-way with no at-grade highway or rail crossings. In such instances, FRA will review equipment safety criteria as an integral part of an overall system safety program, issuing a rule of particular applicability.

Discussion of Possible Safety Standards

Basis for Safety Parameters Under Consideration

In preparation for rulemaking, FRA considered the service history of general system railroads in the United States, research and technical advice from the Volpe Center (incorporating learning from human trauma studies in other modes of transportation), staff analysis, and learning gleaned from extensive consultations with knowledgeable persons (both within the United States and abroad) over several years of study. In addition, FRA has worked with Amtrak to develop safety features incorporated into Amtrak's specification for high-speed trainsets.

Safety features suggested by FRA to Amtrak for high-speed trainsets—intended for use in the mixed passenger/freight environment—serve as the basis for sample safety parameters used by FRA to evoke a discussion of Tier II equipment safety standards. Current North American passenger rail safety practice, recent NTSB recommendations, and selective use of requirements gleaned from recommendations made to Amtrak for high-speed trainsets serve as the basis for the sample safety parameters used to evoke a discussion of safety standards appropriate for a less challenging operating environment (Tier I equipment standards).

FRA made both Tier I and Tier II equipment safety concepts available to the Working Group for discussion and consideration. The safety parameters contained in these concepts draw upon AAR Specification S–580 for locomotive crashworthiness, existing regulations (49 CFR Part 229), NTSB recommendations, and an analysis of the forces produced as a result of realistic collision scenarios.

Appendix B outlines safety parameters provided for consideration for Tier I and Tier II equipment. Given that Tier II equipment is intended to operate in an environment that can create a greater safety risk than Tier I equipment, most Tier I parameters outlined in Appendix B also become Tier II parameters. To simplify the task of responding to this ANPRM, Appendix B contains only those Tier II requirements that are in addition to, or different from, Tier I requirements.

It is emphasized that neither FRA nor the Working Group has endorsed these safety parameters, except to the extent that they mirror existing regulations. FRA is not proposing their adoption; rather, FRA makes available for discussion the results of efforts by the technical staff to identify safety risks and to suggest possible means to address these risks.

While the basis for many of the safety parameters suggested for discussion will be self evident, certain of the more novel concepts warrant explanation. The following discussion addresses that need.

Limiting initial decelerations of passengers to 6g maximum and 4g average—as suggested in Appendix B—is based on automobile crashworthiness research. These decelerations are identified as levels that unrestrained people are likely to survive if the interior of the vehicle is designed to mitigate secondary impacts (*i.e.*, the compartmentalization design strategy). Analysis shows peak longitudinal deceleration of the occupied spaces of coach cars protected by a leading or trailing locomotive or power car is expected to be approximately 8g for a train-to-train collision at a speed in excess of 30 mph. Greater collision speed does not significantly increase the peak deceleration of the occupied coach volume, but it does increase the time over which the occupied volume is decelerated.

During the collision, unrestrained occupants of such a coach will be thrown into interior fixtures, such as seatbacks, with a force substantially greater than that associated solely with the deceleration of the train. This increase in force is due to the occupant striking the interior at a relative speed of up to 25 mph. If the seat is to remain attached during a train-to-train collision in excess of 35 mph, simulation analysis indicates that coach seat attachment strength must be able to resist the inertial force of 8g acting on the mass of the seat plus the impact force of the mass of the passenger(s) being decelerated from a relative speed of 25 mph.

FRA believes that sufficient potential crush distance is available in single-level equipment with end vestibules such that good crash energy management design can achieve the 6g-maximum and 4g-average limits for passengers (other than those riding in a leading control cab) even for a high-speed crash scenario. Other equipment types (bi-level, gallery, and food service with no vestibules) need to be studied to determine the limits of potential crush distance.

On the other hand, FRA recognizes the difficulty in limiting the initial deceleration of the crew in the cab to a survivable level during a high-speed collision because little unoccupied crush space is available forward of the control cab. As a result, Appendix B contains a design goal of limiting decelerations on the crew in the cab to 24g maximum and 16g average for the first 250 milliseconds of the crash pulse. (The 250-millisecond duration was selected as the time required for people to make their initial impact with an interior surface and be pinned by inertia against that surface. After this time, the peak deceleration can be greatly increased without causing extensive injuries.) Based on analysis results, the peak deceleration of a leading control cab is approximately 12g. Analysis indicates that this peak deceleration does not increase as collision speed increases, but it does increase the time over which this peak deceleration is exerted on the cab. During the collision, unrestrained crew members may be thrown against the interior of the cab with a force substantially greater than that associated solely with the deceleration of the train. This increase in force is due to the crew member striking an interior surface or object at a relative speed of up to 25 mph. Decelerations of this magnitude require restraint systems or a crash refuge to protect the crew in the cab.

FRA believes that many crash survivability issues can be resolved without great difficulty. However, protecting persons from secondary impacts is a considerable challenge. To limit the decelerations of people to survivable levels, high-speed trainsets

must be designed with a crash energy management feature.

The greater the crush distance that can intentionally be designed into the trainset before reaching an occupied volume, the more survivable a collision will be. In equipment operated with a cab car forward, the control cab is necessarily near the leading surface of the trainset, so very little crush distance is available to protect people in the cab. As a result, the decelerations of people will be large, resulting in more numerous and more severe injuries.

An argument presented against increases in structural strength requirements for new passenger equipment is that the new equipment would be a hazard to existing passenger equipment operating in the same corridor. This argument is based, in part, on a 1972 rear-end collision between two passenger trains in Chicago. In this collision, an older, heavier car climbed over a newer car of lighter construction, telescoping into the passenger compartment of the lighter car, resulting in the deaths of many people.

Some have contended that increased structural strength for new passenger equipment would create an equivalent incompatible situation between new equipment and existing equipment. However, several differences between the situation in 1972 and today refute this argument. Today's passenger equipment has collision posts, anticlimbers, and strong truck-to-car body attachments—all intended to prevent climbing and telescoping. In addition, both existing equipment and new equipment will have the same basic static end strength (backbone). While new equipment may have a more substantial end structure, the crash energy management system will cause this end structure to be pushed back into the unoccupied space of the new equipment rather than forward into the existing equipment. Alternatively, some of the end structure strength characteristics might be placed inboard of the crush zones.

Once the crash energy management system crush distance is consumed, the full height of the collision posts and corner posts recommended for the new equipment will likely deflect the older equipment up over the new equipment rather than creating a telescoping situation. The fears expressed are therefore unlikely to materialize.

The basis of the concern for side impact strength and the point of application of side impact forces stems from two facts:

(1) Approximately 25 percent of all highway-rail crossing accidents involve a highway vehicle striking the side of a train; and

(2) Designs of some passenger equipment have floor levels low to the rail, creating the tendency for a heavy highway vehicle striking the side of the train to climb into the occupied passenger volume rather than being driven under the underframe of the passenger rail car.

Analysis shows that current single-level intercity passenger coach equipment is sufficiently strong, and will derail in collision scenarios similar to that described above before a significant amount of crushing of the occupied passenger volume occurs. FRA believes that future equipment should perform at least as well as current equipment in such collisions, and that a need exists to specify minimum side impact protection for rail cars with low floor levels such as bi-level equipment.

Other scenarios where reasonable side strength may be of value include side impacts at switches and at railroad crossing diamonds (when *e.g.*, a single freight car rolls free during switching).

A proposed concept for a side impact strength design requirement involves the ability of a car body to withstand—with limited deformation of the car body structure—the load applied by a loaded tractor trailer travelling at a selected speed which collides with the side of the car over an area and at a height typical of tractor trailer bumpers. What specific parameters should be used to implement this concept, or what alternate concepts can be proposed for a side impact strength design requirement?

FRA's concern for a minimum rollover strength requirement is based on accidents such as that which occurred to Amtrak's Lakeshore Limited in January 1994. The train derailed while travelling from Albany, New York, to Chicago, and several cars rolled down an embankment. Very little crushing of the occupied volumes of any of the cars involved occurred. The current design of single-level intercity passenger cars generally performs well when subjected to the impact loads associated with tipping on a side or rolling onto its roof from an upright position. While these loads may vary significantly depending upon the nature of the wayside where the rolling occurs, FRA believes that passenger cars should have minimum side strength and roof strength to help minimize the loss of occupied volume should a rollover occur. FRA also believes that locomotives and power cars should have sufficient side and roof structural strength to minimize loss of volume in the operator's cab under such conditions.

The sections of this ANPRM addressing design standards seek input from the industry on how to take advantage of the safety improvements offered by a crash energy management design approach for future passenger equipment.

Inspection, Testing, and Maintenance Requirements

Pre-Departure or Daily Safety Inspections

A pre-departure or daily safety inspection is an essential element of a system safety program for all trains that carry passengers. The pre-departure or daily inspection should include the steps necessary to ensure the train departs without mechanical, electrical, or electronic defects that could degrade the safe operation of the train.

Amtrak has voluntarily implemented a pre-departure safety inspection of all passenger trains. Amtrak developed the inspection procedures in close cooperation with FRA. The procedures combine a power brake inspection and test, a mechanical inspection similar to that required for freight cars, a safety appliance inspection, and spot checks by supervisors. Amtrak has been using these procedures since April 1994, and they do not appear to have an adverse impact on train schedule. Appendix C contains a copy of the inspection procedures used by Amtrak. These inspection procedures are offered as an example only. They are not a general solution to how to conduct pre-departure safety inspections of passenger trains.

Using the Amtrak procedures as a starting point, FRA solicits comments on how these procedures need to be tailored to fit the needs of each segment of the industry. What train schedule impacts will result from implementing a pre-departure or daily safety inspection program? Does FRA need to be made aware of any circumstances or reasons for not performing a pre-departure or daily safety inspection? What range of options should an operating railroad have when the safety inspection uncovers a defect? How should any proposed safety standards take into account and encourage the potential that technology provides to automate pre-departure or daily inspections of future equipment? As automated features are added to passenger trains, does a train information system that records and logs inspection and test results and maintenance status make sense?

In terms of labor, materials, etc., what additional resources would each operator need to perform a pre-departure inspection equivalent to Amtrak's? How many pre-departure or daily inspections are performed annually by each operator? What potential safety benefits could result from performing inspections equivalent to Amtrak's? Please explain or document estimates. For those currently performing inspections, what additional benefits could be realized by modifying those inspection procedures to meet Amtrak's? Please explain or document.

Tourist, Museum, and Other Special or Unusual Equipment

FRA recognizes that most tourist railroads are small businesses operating older equipment on a limited budget. As a basis for discussion, FRA postulates a simple system safety program for excursion and tourist railroads based on:

(1) A pre-departure safety inspection that takes into account the type of equipment being used;

(2) A periodic testing and maintenance program based on the type of equipment and the extent of its use; and

(3) Minimum qualifications for inspectors and maintenance personnel to ensure that they have the knowledge necessary to perform safety-critical tasks.

FRA needs the tourist and excursion railroad industry to address the following questions: What are the effects of such a simple system safety program on tourist and excursion railroad operations? How can the requirements for a pre-departure safety inspection be written so they are enforceable but provide necessary flexibility?

Information available to FRA indicates that there are approximately 100 excursion railroads subject to FRA jurisdiction, operating about 250 locomotives and 1,000 passenger cars. Is this information correct? What size crews operate excursion and tourist trains? What is the average annual passenger car mileage for tourist and excursion railroads? What human and physical resources are available to these railroads for inspection and maintenance of equipment?

What potential safety benefits are available from the proposed standards for tourist and excursion railroads? To what extent will they be realized under the proposal? Please explain.

FRA also solicits comments from the tourist and excursion railroad industry on how passenger equipment safety standards may impact them in unintended ways.

Private Passenger Cars

FRA believes a private passenger car should be held to the same basic inspection standards as the other equipment being hauled in the train hauling the private car. However, FRA intends to take into account the financial burden imposed by requiring private passenger car owners to modify their equipment to meet any new design standards included as part of proposed passenger equipment safety standards.

FRA needs private passenger car owners to address the following questions as part of their response to this ANPRM: What minimum set of inspection requirements should host operators impose on private passenger cars? How should these minimum standards be incorporated into Federal regulations? What effects are foreseen from the proposed passenger equipment safety regulations on the ability to operate this equipment? Take care to point out all potential unintended impacts.

How many private passenger cars are in operation? On average, how many miles do private passenger cars travel annually? What potential safety benefits are available from the proposed standards for private passenger cars operators? To what extent will they be realized under the proposal? Please explain.

Tier I Equipment

FRA believes standards for pre-departure and daily inspections of Tier I equipment should take into account the type of equipment being used and the type of service. Pre-departure safety inspection and test criteria implemented by Amtrak should be considered as a guide for developing a set of core inspection criteria for incorporation into Federal safety standards for Tier I equipment. These inspection criteria are given as Appendix C.

FRA recommends that each operator of passenger equipment use these criteria as a guide, and comment on how similar criteria could be—or have been—implemented as part of its operation. Members of APTA are encouraged to comment through the APTA members on the Working Group.

FRA recognizes that the pre-departure inspection need not be a complete safety inspection. The combination of the daily and the pre-departure inspections should be considered the complete safety inspection of the train.

To what extent would daily and pre-departure inspections vary from current practice? To what extent would these requirements impact passenger operations? How can the requirements for pre-departure and daily safety inspections be written so they are enforceable but provide the flexibility required to meet service requirements, hold down costs, and encourage innovation?

Tier II Equipment

Since Tier II equipment will be designed for operation in higher risk and/or consequence operating environments, FRA believes the safety inspection program to be used with the equipment should be developed from a thorough risk analysis done as part of the system safety program. This risk analysis should result in a set of inspection criteria, tasks, intervals, and skills required to develop a safety inspection program that reduces the overall risk of operation to an acceptable level.

Planned Testing, Preventive Maintenance, and Personnel Qualification Requirements

FRA believes planned testing and preventive maintenance requirements of safety-critical systems or components—triggered by time, mileage, or some other key reliability/safety parameter—are also an essential feature of a system safety program. A key step in the system safety program is to perform a reliability analysis or use accumulated reliability data to determine the planned tests and preventive maintenance tasks—as well as what should trigger them—that are required to maintain a safe operation. The system safety plan should also include an approach to accumulate the data necessary to justify changes in maintenance approaches or intervals for safety-critical systems and components.

Most passenger equipment operators already have testing and maintenance requirements for their equipment, though the extent to which they are based on formalized risk analysis is not clear. FRA searches for a means to ensure that all industry system safety programs include preventive maintenance and planned testing requirements while allowing the industry the flexibility needed to cope with various operating environments. FRA also recognizes the desirability of allowing maintenance or testing intervals to be changed based on accumulated operating experience with the equipment.

Currently, what equipment is tested and maintained periodically? How often (in terms of miles, time, or other parameters) is this equipment tested and maintained? How can standards be structured to allow testing or maintenance intervals to be changed based on either good or bad operating

experience while maintaining adequate safety margins? What do periodic tests and maintenance currently entail—labor, materials, etc.? What benefit(s) would be associated with a periodic testing and maintenance requirement? Please explain.

FRA views the skills and knowledge of the people responsible for inspections, testing, and maintenance as one of the most important requisites of an effective system safety program. FRA seeks a means for passenger equipment operators to demonstrate that the people performing crucial safety inspections and maintenance tasks—whether they be mechanical forces or train crews—have the current knowledge and skills necessary for their jobs. As equipment incorporating new technology—to include remote sensing and automated testing—comes into widespread use, a better trained inspection and maintenance workforce will be required and minimum qualification standards will become more important.

GAO Report RCED–93–68 ''Improvements Needed for Employees Who Inspect and Maintain Rail Equipment'' highlights some of the concerns regarding the knowledge and training of personnel performing safety-critical tasks. GAO concludes that training programs for mechanical employees and foremen have weaknesses that leave passenger railroads vulnerable to skill shortfalls in the inspection, testing, and maintenance workforce. GAO points out that the personnel who inspect, test, and maintain European high-speed passenger trains receive much more training and generally are more skilled than their American counterparts. European railroads require mechanical employees either to pass an examination or to demonstrate their proficiency. An internal FRA assessment confirms the findings of this GAO report. Copies of both the GAO report and the internal FRA report documenting this assessment have been placed in the docket.

FRA seeks comment from all segments of the industry on how to require passenger equipment operators to demonstrate that the people (whether employees or contractors) performing safety-critical tasks have the knowledge and skills to do so. FRA does not wish to mandate specific training programs or experience requirements; FRA believes that these details are the purview of each individual operator and that each railroad should establish the minimum training and qualification requirements based on the equipment being operated. However, an important feature of proposed passenger equipment safety standards will be a means to measure or to demonstrate the effectiveness of individual training programs. Unless people with the necessary knowledge and skill perform safety-critical tasks, passenger equipment operators cannot have an effective system safety program.

How should the proposed safety standards be structured to ensure that each operator meets this important responsibility to demonstrate the skills and knowledge of personnel that perform safety-critical tasks on passenger equipment? Currently, how many employees/contractors are involved in inspecting, testing, and maintaining a passenger car or locomotive? How many of these people are mechanical personnel? Are there established minimum training and qualification requirements for employees and contractors performing inspections, tests, and maintenance? Approximately how many labor hours does each passenger service operator spend each year on these activities?

What are the potential benefits of increased training in periodic testing and maintenance? To what extent are expenditures on such training cost effective? Historically, does this type of training produce identifiable safety benefits? Please explain.

Tourist, Museum, and Other Special or Unusual Equipment

FRA believes that tourist and excursion railroads, museums, and other operators of special or unusual equipment that carry passengers should have:

(1) A planned testing program;

(2) A preventive maintenance program keyed to mileage, time, or some other triggering parameter; and

(3) A means to demonstrate that the people carrying out these programs have the knowledge and skills necessary to correctly perform the safety-critical tasks identified as part of these programs.

FRA seeks to establish a minimum program for operators of special or unusual equipment that takes into account the resource constraints placed on these operators, and yet recognizes that even equipment operated for short distances and at low speeds requires periodic maintenance attention by skilled individuals to maintain safety.

What should be the basis for scheduling planned tests and preventive maintenance, and what crucial tasks need to be performed? How should tourist and excursion railroads demonstrate to FRA that personnel performing safety-critical tasks have the knowledge necessary to do the job?

Private Passenger Cars

FRA believes that a private passenger car should be held to the same basic planned testing and preventive maintenance standards as the other equipment being hauled in the train hauling the private car. However, FRA anticipates that since private passenger cars tend not to be highly used equipment, the events that trigger planned tests or preventive maintenance (mileage, time, etc.) will occur less frequently than for equipment in regularly scheduled passenger or commuter service.

Since private passenger cars tend to be vintage equipment with parts, and testing and maintenance procedures that are no longer common in the rail passenger industry, the knowledge and skills necessary to conduct an effective planned testing and preventive maintenance program are likely to be possessed by only a few individuals.

What minimum set of planned testing and preventive maintenance requirements should host operators impose on private passenger cars? How should these minimum standards be incorporated into Federal regulations? What should be the basis for scheduling planned tests and preventive maintenance for private passenger cars, and what critical tasks need to be performed? How should owners of private passenger cars demonstrate to FRA that personnel performing safety-critical tasks have the knowledge necessary to do the job? To what extent does any third party monitor the quality of work performed on passenger cars by contract shops? (Amtrak currently operates a certification process for private passenger cars that desire to operate in Amtrak trains.)

Tier I Equipment

Since Tier I equipment will very likely be traditionally designed equipment that operates in environments with which railroads have a wealth of experience, planned testing and preventive maintenance programs should be based on that experience with the type of equipment and its extent of use. Operators of Tier I equipment should have a planned testing and maintenance program based on operating experience with the equipment. Changes to the program would also be based on operating experience.

As part of the operating experience on Tier I equipment, railroads need to identify the safety-critical maintenance tasks and the skills required to perform them. Railroads must use this knowledge to develop a training

program to ensure inspection and maintenance personnel have these skills and are able to demonstrate them.

What should be the basis for scheduling planned tests and preventive maintenance for Tier I equipment? What critical tasks need to be performed? How should railroads demonstrate to FRA that personnel performing safety-critical tasks on Tier I equipment have the knowledge necessary to do the job?

Tier II Equipment

Because Tier II equipment will be new equipment designed for operation in higher risk operating environments, FRA believes the planned testing and preventive maintenance program for safety-critical systems and components should be developed from a thorough risk analysis done as part of the system safety program. This risk analysis should result in a set of planned testing and preventive maintenance criteria, tasks, intervals, and skills required to develop a program that reduces the overall risk of operation to an acceptable level. What is an acceptable level of risk in developing risk-based performance standards for this type of equipment?

Equipment Design Standards

Standards for Tier I Equipment

Current passenger equipment has certainly demonstrated its ability to operate safely at speeds up to 125 mph. However, the design of this equipment is largely based on loose industry standards that are no longer actively maintained or enforced. The design of new Tier I passenger equipment should not be left to a collection of similarly loose standards. A practical approach to establish minimum safety standards for new Tier I equipment would be to consolidate current safety related design standards or industry practices directly into the new regulation.

FRA believes train operation has significantly changed since the design requirements in 49 CFR 229.141 for trains of total empty weight of less than 600,000 pounds and AAR Specification S–034,''Specification for the Construction of New Passenger Cars,'' were first promulgated. Have these requirements outlived their usefulness, and should they be eliminated? Would a regulation based on the compilation of current North American industry structural design standards and practices provide the ''minimum floor'' crashworthiness requirements for Tier I equipment?

Initial analysis and computer modeling by the Volpe Center, using a lumped-mass model and idealized force-crush characteristics, predicts the conventional uniform longitudinal structural strength design approach to be as effective as a crash energy management design approach in providing protection for passengers and crew at speeds up to approximately 70 mph. Although crash energy management design can benefit passengers of equipment involved in lower speed collisions, this analysis suggests that the additional expense of a crash energy management design may not be justified for some new Tier I passenger equipment, depending upon the upper speed limit in this tier.

The Rail Safety Enforcement and Review Act (RSERA), Pub. L. No. 102–365, 106 Stat. 972 (September 3, 1992), requires FRA to report to the Congress on the crashworthiness of locomotives and the effectiveness of AAR Specification S–580, which is the current industry standard regarding crashworthiness of locomotives. Much of the research and analysis done to comply with this law can be applied to head-on and, potentially, rear-end collisions of passenger trains.

This analysis shows AAR Specification S–580 provides a significant increase in crashworthiness over locomotives built prior to implementation of this specification. However, the locomotive collision computer model developed to support the RSERA shows a weakness in the way locomotive builders implement the S–580 anticlimber requirement. The model shows—at all but very low collision speeds—that at the onset of override, the anticlimber of the locomotive being overridden is crushed and sheared or bypassed rather than loaded vertically by the anticlimber of the opposing locomotive. Evidence from several collision investigations tends to confirm this prediction. Examination of locomotives and cars equipped with anticlimbers that have been involved in collisions where override occurred shows evidence of bending of the anticlimber shelf due to high coupler loads. This bending appears to prevent the shelf from being capable of resisting a vertical load. Couplers designed to break away or load some part of the structure so that the anticlimber shelf is not deformed before being required to resist a vertical load appear to be necessary to allow the anticlimbers to function as intended.

FRA believes that if passenger equipment can be designed to fully involve (bend but not collapse) the underframe to resist collision forces before collision posts or end structures are loaded, the ability to maintain uncrushed, survivable volumes will be maximized. Properly designed anticlimbers can play an important role by allowing the significant structural strength of the underframe to resist the full collision forces during the initial phase of an impact. Bending the underframe before the collision posts or end structures take over the role of protecting the cab occupants can dissipate a large amount of the collision's energy that might otherwise cause crushing of occupied space.

Does other evidence exist to support or refute this computer model prediction of anticlimber effectiveness? What design analysis has been done on existing anticlimber designs under dynamic conditions simulating a collision? Are anticlimber design changes necessary to ensure that anticlimbers are loaded vertically as intended during collisions? Are practical design concepts available that may improve anticlimber performance during collisions? Can anticlimbers be designed that make bending (but not collapse) of the underframe likely before collision posts or end structures are required to bear significant loads? What would be the likely costs associated with alternative designs to ensure that anticlimbers are loaded vertically during collisions?

The computer model also predicts collision post designs currently used by North American manufacturers exceed the requirements of AAR S–580 by a factor of two for freight locomotives—weight restrictions can prevent such a large factor of safety in passenger locomotives—and that this additional strength provides significant additional protection to the crew in the cab. Should a modified version of AAR S–580 specifying a more effective anticlimber, stronger and full-height collision posts, and full-height corner posts be considered as part of the safety standards for new conventional passenger locomotives? What would be the likely impacts of such a standard on locomotive weight and performance? What costs would be associated with specifying full-height collision posts and full-height corner posts on conventional locomotives?

Rather than a standard similar to AAR S–580, should a unitized type of end structure with integral collision and corner posts that extend to the roof line be considered for a design standard for conventional passenger locomotives? Would it be feasible to develop a purer performance specification for train end structural strength that allows full flexibility in the design of structures? What collision scenarios and forces should be considered in such an approach? Such an approach could

provide weight and performance advantages.

Fuel spills are both an environmental and a safety problem. Fires resulting from fuel spills can turn a minor accident into a major event. What is the experience of passenger railroads with fuel spills? What clean-up costs have been incurred? Should all diesel passenger locomotives—including self-propelled diesel cars—be equipped with the type of strengthened fuel tanks that meet the requirements in Appendix B proposed for Tier II equipment? If not, what performance standard should be used for Tier I diesel passenger locomotive fuel tanks?

How much would it cost to equip conventional passenger service locomotives with the type of strengthened fuel tanks discussed in Appendix B? What levels of safety benefits can be realized from strengthened fuel tanks? Please explain.

Based on the findings of recent investigations of accidents involving passenger trains, several factors have contributed to the number and the extent of the injuries suffered. Among these factors are:

(1) A lack of reliable backup emergency lighting for coaches;

(2) A lack of means to exit coaches and locomotives more easily—from both ends and all compartments—especially when they are resting on their sides;

(3) Seats that break loose from attachment points or that rotate; and

(4) Luggage and other objects thrown about the interior of coaches.

Amtrak believes that existing industry standards for emergency lighting are adequate and should become the Federal standard. NTSB would like a requirement for securing the batteries that provide power to emergency lights so connections to the emergency lights are not knocked loose during a collision.

During Working Group meetings, Amtrak pointed out several potential disadvantages of roof hatches in passenger equipment because they are difficult to maintain and are often a source of leaks. The hatches allow passengers or trespassers access to the roof which can be particularly dangerous in electrified territory. Amtrak has suggested inclusion of a clearly marked structural weak spot where properly equipped emergency personnel can quickly gain access to the interior of the coach or locomotive through the roof as preferable to roof hatches.

Should Tier I equipment safety standards include provisions for:

(1) Emergency lighting?

(2) Roof hatches or a clearly identified structural weak point where properly equipped emergency personnel can quickly gain access through the roof?

(3) Minimum strength of seat attachment?

(4) Minimum strength and enclosed luggage compartments?

To what extent does passenger equipment currently have backup power systems in place? What would it cost to install a backup power system? What safety benefits would result from backup power systems?

How many coach units have backup emergency lighting? What would it cost to install a backup emergency lighting system? What rationale is used to determine whether a unit will have backup emergency lighting? To what extent would potential safety benefits be realized? Please explain.

What would it cost to install roof hatches or access areas on cars?

What options exist for enclosing existing luggage compartments? At what cost? To what extent would potential safety benefits be realized from enclosing luggage compartments? Please explain.

Safety Glazing

One of the issues addressed by existing regulations that bears on the safety of passenger train occupants is exterior glazing. Because of the complexity of the issues in this proceeding, satisfaction with existing standards, and the need for coordination with freight interests not represented on the Working Group, the Working Group has expressed a reluctance to address glazing in this proceeding. In order to determine whether to renew its request to the Working Group or another advisory body to examine this issue, FRA seeks information on incidents of glazing shattering or spalling that caused injuries to occupants of passenger trains. Some perceived problems with current 49 CFR Part 223 requirements that have come to FRA's attention include the following:

(1) The witness plate used for testing is too thick, allowing spalling of pieces of glass large enough to cause injury;

(2) The impact test using a 24-pound cinder block is not repeatable;

(3) Vendors need to be periodically recertified by an independent testing laboratory; and

(4) The strength of the framing arrangement securing the glazing is neither specified nor tested. (Amtrak has noted that it currently requires glazing to be tested in its intended framing.)

Should FRA revise the glazing standards for conventional passenger equipment to:

(1) Require testing with a thinner witness plate?

(2) Require a more repeatable impact test? If so, what should the impact test requirement be?

(3) Require periodic recertification of vendors by an independent testing laboratory?

(4) Address the strength of the glazing frame? If so, how could this be practically done?

(5) Require increased strength, impact resistance, or bullet penetration resistance?

What would the impact on glazing thickness and weight be if FRA were to modify Part 223 as suggested above? To what extent should interior glazing be considered in this proceeding? Are appropriate reference standards already available? What benefits could be derived from modifying Part 223 as suggested? What would be the cost to realize these benefits?

Fire Safety

FRA does not have regulations covering fire safety of passenger equipment. Current industry practice is to follow FRA guidelines published in the Federal Register on January 17, 1989. (See 54 FR 1837, ''Rail Passenger Equipment; Reissuance of Guidelines for Selecting Materials to Improve Their Fire Safety Characteristics.'') Fire resistance, detection, and suppression technologies have all advanced since these guidelines were published. Amtrak follows more stringent specifications for fire safety than found in FRA's guidelines. A trend toward a systems approach to fire safety is evident in most countries with modern rail systems. Are Federal regulations or more in-depth guidelines needed to:

(1) Prevent fire or retard its growth?

(2) Detect and suppress fire?

(3) Protect occupants from the effects of fire?

Appendix B

To stimulate thought and generate discussion on passenger equipment design standards, FRA is providing for consideration the detailed set of equipment design provisions contained in Appendix B. From experience with past ANPRM's, FRA learned that such a strategy results in more and higher quality comments on the specific issues in the proceeding. FRA does not intend to implement the requirements given in Appendix B without significant change based on the deliberations of the Working Group, supplemented by information and views received in response to this notice. FRA strongly encourages comments on these

provisions and proposals for alternative standards.

Standards for Tier II Equipment

For the past several years, FRA has held discussions with manufacturers of foreign high-speed rail equipment seeking a market for their equipment in the United States. These manufacturers sought a clear definition of the requirements that their equipment must meet to be allowed to operate in the United States. Because FRA recognizes existing North American passenger equipment standards were not intended to apply to equipment operating at speeds significantly over 100 mph, and because current Federal regulations do not cover such operations, FRA could not provide clear guidance. This has caused confusion, and has led to the perception that competition for the American market is risky.

Amtrak has hosted test and revenue service demonstrations of two foreign, high-speed trainsets in the United States. Operating experience gained in Europe and in the United States with these trainsets helped place Amtrak in a position to develop a system specification to procure trainsets to operate at speeds up to 150 mph in the Northeast Corridor. FRA reviewed drafts of the procurement specification for these trainsets and made safety-related recommendations. The resulting discussions between Amtrak and FRA highlighted the technical issues that must be resolved as part of the process for developing safety standards for high-speed trainsets.

Sample high-speed passenger trainset design requirements are outlined in Appendix B. FRA compiled this set of design requirements to prepare for the review of Amtrak's system specification for high-speed trainsets. FRA developed this set of proposed requirements based on discussions with manufacturers and operators of European equipment, research done or sponsored by the Volpe Center, experience gained in developing a concept for a proposed rule specifically applicable to the Texas TGV System, and the results of tests conducted jointly with Amtrak on high-speed trainsets in the Northeast Corridor. FRA recognizes that some of the requirements push the state of the art. Of particular interest to FRA are comments on the technical limits of crash energy management systems and on how best to define or specify crash energy management in a set of performance requirements. FRA attempted to specify a crash energy management system by placing limits on the acceleration experienced by passengers during the initial phase of a collision. To design to such a requirement requires a reference collision scenario with defined collision parameters. The advantage of such an approach is that it is tied directly to the parameter most responsible for injuries due to secondary impacts. Can an approach to designate crash energy management requirements tied to a specific design collision scenario be adequately defined to serve as the basis for trainset design?

An alternate approach, advocated as less complex, is to specify the minimum energy to be absorbed at each location in the trainset designed to crush before occupied space crushes. Such an approach has the advantage of not being tied to a design based on a collision scenario. However, FRA believes that the main value of a crash energy management design is to increase the duration of the collision, allowing train occupants to decelerate more slowly, and minimize the uncontrolled collapse of occupied space. The amount of energy absorbed is of secondary importance.

FRA also believes that using ability to absorb energy as a crash energy management design parameter does not focus on the real purpose of the crash energy management system. FRA invites comments in this area. Is the amount of energy that can be absorbed in a collision actually a secondary issue to slower decelerations and more controlled collapse?

If ability to absorb energy is used as the crash energy management system performance parameter, what are the limits on controlled crush distance and energy absorbed that can reasonably be expected to be achieved? What causes these limitations? How can a performance standard based on an ability to absorb energy be tied to an ability to decrease the initial acceleration of train occupants which is the key parameter for a crash energy management design? What flexibility is needed in end-strength requirements of occupied versus unoccupied volume to allow effective crash energy management system design?

A second safety-critical design feature of key interest to FRA is the strength and construction of the end frame (or end structure) of both power cars and coaches. As noted above, a unitized or monocoque end structure with vertical members (collision post(s) and corner posts) that extend to the roofline, with significant structural strength where they are tied into the roofline, may be capable of protecting crew space more effectively and with less weight penalty than more traditional designs. FRA believes such an end structure may play a significant role when override occurs to prevent crushing or penetration of the occupied volume that it protects. When combined with an effective crash energy management design, such an end structure would be pushed back as a unit (similar to being mounted on a spring) through the volume designed to crush.

Through the Working Group, FRA will pursue a thoughtful technical discussion of such an approach including suggestions on how best to set performance requirements and reasonable limits for design strengths. Should a monocoque end structure—or equivalent structure—that ties together the floor, collision posts, corner posts and roof into a single structure be required or authorized for high speed passenger trains? FRA welcomes proposed alternative approaches designed to provide equivalent protection. What costs would be associated with alternative approaches designed to prevent crushing or penetration of the occupied volume in power and coach cars? Please be specific in defining the alternative approach and its cost elements.

A third safety feature that needs a thorough technical review is how to design the trainset to stay in line and on the track during the initial phase of a collision to give the crash energy management system an opportunity to perform its intended function. If the trainset buckles laterally and leaves the track too soon, volumes designed to crush will not be crushed, resulting in higher decelerations of occupants, and possibly negating the significant structural protection provided by end structures. If the trainset buckles vertically causing early override, the protection provided by the underframe may be bypassed. A discussion of the design innovations necessary to delay buckling of the trainset as long as possible is needed.

What practical design techniques exist to delay either lateral or vertical buckling of passenger trainsets involved in collisions? How much would installation of alternative buckling delay systems cost in terms of labor hours and materials?

As train speed increases, the human decision and reaction time necessary to avoid potential calamity decreases. Automatic control techniques that briefly take the operator out of the control loop are a means to eliminate the human decision and reaction delays in situations where taking quick and positive action can be crucial. FRA believes technology can allow safety-critical parameters pertaining to the following high-speed trainset

subsystems or events to be monitored by remote sensors:

(1) Truck hunting;
(2) Dynamic brake status;
(3) Friction brake status;
(4) Fire detection;
(5) Head-end power status;
(6) Alerter;
(7) Horn and bell;
(8) Wheel slip and wheel slide control; and
(9) Tilt control system, if equipped.

FRA intends to require monitoring of dynamic brake status. If the friction brake of the trainset is designed to be able to safely handle the entire braking load without assistance from the dynamic brake, the dynamic brake may not be considered a primary safety-critical system.

FRA considered including bearing overheat in the above list. However, the Working Group cautioned FRA that on-board bearing sensors have proven to be unreliable. In the Working Group's view, until on-board bearing sensor technology matures, the industry will continue to rely on wayside bearing overheat detection.

Should automatic monitoring for each of the above events/subsystems be required? Do other safety-critical subsystems/events lend themselves to monitoring by remote sensors? Could safety be enhanced by requiring an automatic response from the train control system—such as slowing the train—when a monitored parameter falls outside pre-determined safe limits? Which events/subsystems are prime candidates for some form of initial automatic response followed by a return to operator or manual control?

Seat arrangement design and passenger restraint systems have a potential to reduce the number and the extent of injuries in the event of a passenger train collision. This potential is present at all speeds, but becomes greater as speed increases. A copy of a technical paper[3] published by the Volpe Center describes a study of the occupant dynamics and predicted fatalities due to secondary impact for passengers involved in train collisions with impact speeds up to 140 mph. The principal focus of the paper is on the effectiveness of alternative strategies for protecting occupants in train collisions, including ''friendly'' interior arrangements and occupant restraints.

Three different interior configurations were analyzed: forward-facing seats in rows, facing rows of seats, and facing rows of seats with a table. Two of these three configurations—the forward-facing consecutive rows of seats and the facing rows of seats—were evaluated with the occupant unrestrained, restrained with a seat belt alone, and restrained with a seat belt and shoulder harness.

The injury criteria used to evaluate interior performance included Head Injury Criteria (HIC), chest deceleration, and axial neck load. Based upon these criteria, the probability of fatality resulting from secondary impacts was evaluated for each of the interior configurations and restraint systems modeled.

In some configurations, such as seats in rows, compartmentalization is shown to be as effective as a restraint system for the 50th percentile male occupant simulated. (As noted earlier, ''compartmentalization'' is an occupant protection strategy that requires seats or restraining barriers to be positioned in a manner that provides a compact, cushioned protection zone surrounding each occupant.) FRA intends to work closely with the Working Group to structure requirements for the interior of new passenger equipment that take advantage of the compartmentalization concept.

In cases where occupants are allowed to travel relatively long distances before impacting the interior, such as the facing-seats interior, restrained occupants have a much greater chance of survival. Fatalities from secondary impacts are not expected in any of the scenarios modeled if the occupant is restrained with a lap belt and shoulder harness.

Design approaches for passenger coaches that exploit this potential are needed. FRA briefed the Working Group on this research, and the Working Group has discussed the advantages and disadvantages of passenger restraint systems (primarily lap belts) and coach interior arrangement design to mitigate injuries. Effectiveness of restraint systems can be dependent on the strength of the seat attachment to the car body. A possible worst case scenario exists when a seat containing a belted passenger is struck from behind by an unbelted passenger. Such a situation can require the seat attachment design to carry a double load.

If the seat is to remain attached under the above conditions during a train-to-train collision in excess of 35 mph, analysis indicates that coach-seat attachment strength must be able to resist the inertial force of 8g acting on the mass of the seat, plus the mass of the belted passenger(s), plus the impact force of the mass of the passenger(s) in the following seat being decelerated from a relative speed of 25 mph against the seat back.

Should lap belts be required? Should all seating be rear facing? Should facing seating be allowed? What are the advantages and disadvantages of placing tables between facing seats? What are reasonable performance requirements for padding materials? Where should padding materials be located? What shock-absorbing characteristics should be required of padding material? What padding thicknesses are practical? What seat attachment strength can reasonably be expected to be achieved?

What seat configurations do passenger cars operating at speeds greater than 80 mph have? If configurations vary, please explain the differences and the reasons for the variations. How many seats does the average passenger car have? If there is no such thing as an average passenger car, how many seats do the different types of passenger cars have? How many cars of different types are there?

What costs would be involved with installing lap belts, shoulder harnesses, and other safety restraints on passenger cars? To what extent would safety benefits be realized from installing safety restraints? Please explain. A review of the technical papers placed in the docket may help with responses to some of these questions.

Due to the forward location of the operator of a high-speed passenger train, he or she is often the person closest to the point of impact and at most risk during a collision. Special provisions are required to protect the operator. How much crushable space can practically be located forward of the operator? Should a lap belt/shoulder harness combination be provided for each crew member in the cab? If lap belts/shoulder harnesses are provided for crew members, will they wear them?

NTSB has long advocated special protective crash refuges (protected areas) for locomotive crew members. ADL has done computer modeling to predict the effectiveness of two types of crash refuge concepts under dynamic conditions simulating locomotive collisions. One of these concepts is a padded trench in the floor of the locomotive in front of the electrical cabinets. Such a trench could be equipped with restraint systems. The other concept is a seat equipped with a lap belt and shoulder harness that rotates and locks in a reverse position allowing the operator to ride out the collision in a rear-facing position. (A report by ADL describing these concepts is part of the docket.[4]) Advanced versions of some European trains

[3] ''Train Crashworthiness Design for Occupant Survivability.'' See note 2.

[4] ''Locomotive Crashworthiness Research,'' Volumes 1–4, DOT–VNTSC–FRA–95–4.1, Final Report July, 1995.

employ a concept where the operator's position is designed to be pushed to the rear, relative to the rest of the cab, to provide the operator additional protection during a collision. Could any of these concepts be implemented into the design of new passenger equipment? Would they be effective? Would they be used?

What are some alternative concepts for the design of such protective refuges? Are they likely to be effective? Are they likely to be used? What impact would they have on locomotive or power car design? Should FRA require them as part of high-speed trainset design requirements? What other, perhaps more practical means exist to reduce the vulnerability of the cab crew to collisions? In terms of time, materials, and labor, what would installation of refuges in locomotives cost?

Lack of an accepted, recognized design tool (computer model) to predict changes in trainset performance as well as changes in the ability to protect people as trainset design parameters are changed inhibits exploiting new design techniques that could result in safer trainsets. Research by the Volpe Center on the structural response of portions of the vehicle to the extremely high loads associated with a collision, and research by AAR to accurately predict the performance of suspension systems to changing track conditions, have contributed greatly toward the goal of developing accepted analytical tools. However, efforts need to be increased and focused on a common goal.

Because full-scale crash testing of passenger equipment is prohibitively expensive, the development of a design tool that is widely accepted by the industry is essential. Such a tool could accelerate investigations of composite materials that hold promise for increased strength at less weight than current materials. A tool of this type could aid research into utilizing high-strength, light-weight composite materials and other technologies to provide operational and safety benefits.

FRA seeks comment from the industry on what the current state of the art is regarding modeling techniques for trainset collisions. Up to what trainset speeds are current models capable of predicting the collision mechanics of a trainset collision? What confidence levels can be expected with these models to predict the onset of override and train set buckling? Are these models capable of accurately predicting the acceleration levels in the trainset throughout the collision, particularly for the first 250 milliseconds?

FRA also seeks input from the industry on the potential for such models to replace full-scale crash testing. Have the current models that are being used been validated by full-scale, partial-scale or component impact testing? Will it be necessary to validate new models by test? Are there limitations as to what type of accident scenarios existing models are capable of analyzing?

The accuracy of the modeling techniques employed is dependent on the individual vehicle and trainset crush characteristics used as input to the models. What means should be used to quantify large deformation and dynamic crush characteristics of the various parts of a trainset? Can this be achieved through simulation alone? Has the industry developed dynamic force-deflection characteristics for existing North American rolling stock that could be used as a reference in FRA crashworthiness studies? If these characteristics are available, for what speeds of collision would they be valid?

What are the essential features of such a modeling tool? How can it be developed so it will receive wide acceptance, be credible and be used within the industry?

FRA outlines a sample set of detailed design requirements for high-speed passenger trainsets in Appendix B to provoke thought and discussion on these and other technical issues that need to be resolved to develop high-speed trainset safety standards. As with the conventional equipment design standards, FRA is pursuing an intentional strategy by providing this level of detail. From experience with past ANPRM's, FRA learned that such a strategy results in more and higher quality comments. FRA does not intend to implement the requirements given in Appendix B without significant change based on the recommendations of the Working Group, supplemented by the information and views obtained in response to this ANPRM. FRA strongly encourages comments on these provisions and proposals for alternative standards. Again, comments from interests represented on the Working Group should, to the maximum extent possible, be expressed through those representatives during the Working Group's deliberations.

FRA seeks comment from technically knowledgeable individuals on the initial set of design standards for high-speed passenger trainsets outlined in Appendix B. FRA recognizes that these standards would preclude operation of several existing high-speed trainsets in the United States without structural design changes. FRA believes that because these trainsets were designed for a much less severe operating environment, and because the American public demands and deserves the safest possible transportation system, attention is warranted for further development of North American standards. Do alternative approaches exist to safety standards for high-speed trainsets that could provide an equivalent level of safety at less cost?

Possibility of Design Standards for Other Tiers of Equipment

Amtrak and some commuter railroads have a long operating experience safely running trains of existing equipment at speeds between 80 and 125 mph. Much of this equipment is the same equipment—designed to the same standards—used for conventional service (herein defined as service at speeds less than 80 mph.) This practice supports the notion that the same set of design requirements used for conventional equipment is adequate for intermediate-speed equipment (*i.e.*, equipment designed for service at speeds up to 125 mph). However, components wear faster and are subject to higher dynamic, mechanical, and thermal stresses at higher speeds. Perhaps more steps need to be added to the pre-departure safety inspection for intermediate-speed equipment. Perhaps maintenance intervals need to be more frequent and/or have more tasks performed as part of the preventive maintenance program. FRA seeks information on how inspection, testing, and maintenance programs for intermediate-speed equipment should differ from those used for conventional equipment.

If the designation between tiers were based solely on operating speed, design or performance requirements for intermediate speed equipment should logically fall between the requirements for conventional equipment and the requirements for high-speed equipment (*i.e.*, equipment designed for service at speeds up to 150 mph). Analysis by the Volpe Center shows a crash energy management design provides significant benefits in terms of passenger and crew protection over conventional designs as collision speeds increase to over 70 mph. This suggests new intermediate-speed equipment would benefit from a crash energy management design approach.

If standards based on more than two tiers are developed, FRA currently believes design requirements for new intermediate-speed equipment should include the requirements for conventional equipment and some of the (possibly modified) requirements for high-speed equipment. The following criteria suggested for consideration for

high-speed equipment may have applicability to intermediate-speed equipment:

(1) Glazing requirements;

(2) Crash refuge for cab crew;

(3) Crash energy management system—perhaps to modified performance standards;

(4) Interior arrangement or restraint systems to mitigate secondary impacts; and

(5) Emergency systems.

FRA seeks comment from builders and operators of intermediate-speed equipment as to where the design requirements for such equipment should be placed on the spectrum between the design requirements for conventional equipment and the design requirements for high-speed equipment.

Design Standards for Systems with Dedicated Rights-of-Way and No At-Grade Crossings

FRA recognizes that a system safety program that places emphasis on the prevention of collisions is highly desirable. However, fundamental changes are necessary in the North American railroad operating environment before accident prevention provisions allow equipment structural design standards to be relaxed. The main problem is North American passenger trains generally share, or operate adjacent to, the rights-of-way with an ever-increasing number of very heavy freight trains, and most passenger rail routes include at-grade crossings used by heavy highway vehicles. The risk to passengers and crew members in this operating environment increases as passenger train speed increases.

FRA encourages passenger systems to operate over dedicated rights-of-way with no at-grade crossings. FRA believes such systems can potentially provide the safest means of high-speed passenger transportation. Should proposed vehicle crashworthiness standards be modified for such operations? If so, to what degree? Should consideration of equipment used exclusively on dedicated rights-of-way be undertaken as part of this proceeding or through a system safety approach in individual proceedings for rules of specific applicability?

Discussion of Operating Issues

Commuter Equipment and Operations

FRA is aware that unique features of some commuter equipment and the unique operating cycle of commuter railroads may require specific attention. Some commuter equipment is stored at outlying locations overnight to be in position for the first morning trip into the major city being served. Mechanical employees are generally not available at these outlying locations to do pre-departure safety inspections. At those outlying points where mechanical employees are not available, an abbreviated initial daily safety inspection is generally performed by train crew members.

During the middle of the day, the pace of commuter operations generally slows, and the equipment is brought to a central location for a more comprehensive inspection by mechanical personnel prior to being dispatched for the evening rush hour. This reality of the commuter operating cycle must be taken into account for any proposed rules governing pre-departure safety inspections of commuter equipment. However, where mechanical employees and facilities are available to perform the pre-departure inspection, it must be performed by mechanical employees. Equipment that receives an abbreviated inspection by the train crew at outlying points at the beginning of the day must receive a complete pre-departure inspection by mechanical employees at the earliest opportunity during the day.

Some of the MU equipment operated by commuter railroads is very different from intercity rail passenger equipment. FRA needs the help of the operators of such equipment to identify the differences that may require special regulatory treatment to avoid unintended impacts on commuter operations. Through participation of APTA on the Working Group, FRA anticipates that commuter railroads will make a special effort to point out unique operating or equipment features that should be taken into account to develop safety standards for commuter equipment.

Information available to FRA suggests that nationwide there are about 20 commuter railroads operating roughly 5,400 passenger cars, 400 cab cars, 2,000 multiple unit locomotive pairs, and 400 conventional locomotives. Are these estimates accurate? What size crews operate commuter trains? Approximately how many people stand on each train? As a result of implementing the proposed standards, would commuter operators realize different levels of safety benefits than intercity operators? Please explain.

Cab Car Forward and Risk

FRA is concerned regarding operation of passenger trains with cab cars or MU locomotives positioned at the head of the train at high speeds. Such operations place the train operator and the passengers in the lead vehicle at inherently greater risk than operating the trainset with a locomotive or power car leading. Current designs of cab cars and MU locomotives provide little structural protection to the operator and forward-most passengers in the event of a head-on or side-swipe collision. Cab car locomotives and passenger MU locomotives are structurally equivalent from a crashworthiness standpoint. (Amtrak has noted that not all cab car locomotives should be considered equivalent to MU locomotives when the cab cars are not equipped with stairway traps in the leading end, such as in the X2000 train).

Computer modeling of passenger train collisions at high speeds by the Volpe Center predicts a dramatic increase in casualties in head-on collisions of trainsets operated with a cab car forward when compared to the same collision with a power car or locomotive leading. This prediction is based on a limited number of hypothetical accident scenarios. The prediction is not based on accident statistics. The technical papers [5] documenting these predictions are part of the docket.

Recent accidents involving trains operating with cab cars in the forward position have heightened FRA's concern. On February 9, 1996, a near-head-on collision occurred between New Jersey Transit Rail Operations, Inc., (NJTR) trains 1254 and 1107 on the borderline of Secaucus and Jersey City, New Jersey. Two crewmembers and one passenger were fatally injured, and an additional 162 passengers reported minor injuries. The passenger fatality and most of the injuries occurred on train 1254, which was operating with the cab control car forward and the locomotive pushing. In addition, the engineer on train 1254 was fatally injured.

On February 16, 1996, a near-head-on collision occurred between Maryland Mass Transit Administration (MARC) train 286 and Amtrak train 29 on CSX Transportation, Inc., at Silver Spring, Maryland. The MARC train consisted of a cab control car in the lead, followed by two passenger coaches and a locomotive pushing the consist. The accident resulted in 11 fatalities, consisting of 3 crewmembers and 8 passengers who were located in the MARC cab car, and at least 13 non-fatal injuries to other passengers of the MARC train.

Following these accidents, FRA issued Emergency Order No. 20, Notice

[5] ''Evaluation of Selected Crashworthiness Strategies for Passenger Trains''; ''Train Crashworthiness Design for Occupant Survivability.'' See note 2.

No. 1, on February 20, 1996, requiring prompt action to immediately enhance passenger train operating rules and emergency egress, and to develop a more comprehensive interim system safety plan addressing cab car forward and MU operations that do not have either cab signal, automatic train stop, or automatic train control systems. 61 FR 6876, Feb. 22, 1996. FRA subsequently issued Notice No. 2 to Emergency Order No. 20 on February 29, 1996, to refine three aspects of the original order. 61 FR 8703, Mar. 5, 1996.

NTSB recommends that MU cars and control cab locomotives be equipped with corner posts to provide greater structural protection from a side-swipe collision. NTSB makes this recommendation based on the findings of the investigation of a passenger train collision that occurred on January 18, 1993, in which Northern Indiana Commuter Transportation District (NICTD) eastbound commuter train 7 and NICTD westbound commuter train 12 collided in a corner-to-corner impact in Gary, Indiana, resulting in 7 passenger fatalities and 95 injuries. The presence of a gauntlet bridge and absence of automatic train control contributed to the cause of this accident. The damage that both trains sustained after the initial impact resulted from the action of dynamic forces that caused the left front corner and sidewall of the passenger compartment of each car to experience a complete structural failure and intrude inward. Because little structure was available in the corner post areas to absorb the forces of the collision, the substantial car body intrusion into each car left no survivable space in the left front areas of either car. Consequently, NTSB issued Safety Recommendation R–93–24, which recommends that:

> In cooperation with the Federal Transit Administration and the American Public Transit Association, [FRA] study the feasibility of providing car body corner post structures on all self-propelled passenger cars and control cab locomotives to afford occupant protection during corner collisions.

The RSERA requires FRA to analyze the crashworthiness of locomotives. As part of this analysis, the Volpe Center tasked ADL to do computer modeling of collisions involving cab cars to predict the benefit of substantial corner posts. The docket contains copies of this report.[6] ADL used the following general approach to evaluate cab car crashworthiness: Finite element models for the major structural elements of a typical cab car were developed and utilized to compute the load versus deformation characteristic curves for major structural elements involved in collisions. These characteristics were used as input to the train collision dynamics model developed previously for freight locomotives. The collision dynamics model was modified as needed to represent a typical passenger train with a cab car at the head end and a locomotive at the rear pushing, instead of a freight train with locomotives at the head end. The modified models were then validated by comparison of predicted results with the actual damage in documented collisions.

This modeling predicts, for control cab/MU locomotives of current design, that when the underframe resists the forces of collision, a cab car will sustain substantial loss of survivable volume in both operator and passenger compartments in head-on collisions at closing speeds above 30 mph. The result of such crush would cause severe injury or fatality to some of the cab car occupants.

When the underframe is bypassed and collision or corner posts resist the forces of the collision, the cab car will sustain substantial loss of survivable volume at collision closing speeds in the 10 to 15 mph range. These predictions emphasize the importance of designs that increase the probability that the underframe will be fully involved in resisting the forces resulting from a collision.

ADL took the modeling one step further by repeating the calculations for a conceptual cab car with a 50 percent underframe strength increase and a 400 percent corner post strength increase over current cab car design practice. These structural changes increased the closing speed required to result in a significant loss of survivable space by approximately 10 mph. These results suggest that only a small improvement in protection is possible through structural changes for a cab car leading, train-to-train collision. However, these structural changes may provide a much more significant increase in protection for the less severe scenarios of a grade crossing collision, a collision with debris including lading that falls from freight trains, or a collision with an object overhanging the track.

Several system characteristics determine the degree of risk involved in cab-car-forward or MU equipment operations. These characteristics include operating speed, traffic density, signal system, grade crossings and grade crossing warning systems (including barriers to prevent entry onto the crossing), and right-of-way features. In addition, the operator of a cab car or MU equipment often has an opportunity to exit the control stand area and move through the passenger compartment toward the rear of the car when a collision is impending.

FRA seeks comment focusing on what is practical and what is economical to reduce the risk associated with operating cab cars in the forward position and operating MU equipment. FRA poses the following set of questions to operators and builders of cab car type equipment: What can be done to increase the protection provided to the operator and forwardmost passengers in a head-on collision with a cab car leading? Advanced versions of some European trains employ a concept where the operator's position is designed to be pushed to the rear relative to the rest of the cab to provide the operator additional protection during a collision. Could such a technique be employed to protect operators in future North American equipment? What design changes can be made to increase the probability that the underframe will be fully involved in resisting the collision forces? Recognizing that structural changes will have only limited benefit, should speed restrictions be placed on cab-forward operations? Should passengers be prohibited from occupying cab cars operating above a certain speed when in a leading position? What would be the impact of placing speed restrictions on cab car forward operations? What mitigating factors may exist that would alleviate FRA's concern for the increased risk associated with cab-car-forward operations as speeds increase? If speed restrictions are placed on cab car forward operations, what speed restrictions should be imposed?

What costs and benefits would be associated with alternatives for increasing crew and passenger protection in a head-on collision with a cab car leading?

Data indicate that at least 400 cab cars operate as lead units. Is this estimate accurate? Approximately how many trips are made each year with cab cars operating as lead units? At what maximum speeds do trains operate with the cab car forward?

FRA estimates that 2,000 MU locomotive pairs operate as lead units. Is this estimate accurate? Approximately how many trips per year involve multiple unit locomotive pairs?

Combined Passenger and Freight Trains

FRA recognizes that circumstances exist where freight trains haul passenger cars and where passenger trains haul freight cars. For example, freight trains on occasion include private or business

[6] "Cab Car Crashworthiness Study Final Report," April 1995, Reference 63065.

cars, Amtrak trains can include mail cars, and Amtrak has experimented with roadrailer-type equipment in passenger trains. Passenger safety standards should cover these special situations as well.

How frequent are such operations? Are any special safety considerations necessary for passenger cars hauled by freight trains or is normal passenger equipment safety practice adequate for this special situation? Are any special safety considerations necessary for freight-type equipment hauled by passenger trains or for passenger trains that haul freight-type equipment.

Station/Platform Boarding and Exiting Passenger Trains

FRA requests comment on the safety of persons in station areas, issues regarding boarding and exiting from trains, and other issues affecting the safety of passenger operations. The following specific issues have come to FRA's attention in recent years, and are illustrative of the concerns that may warrant examination in this proceeding:

Door Securement

The manner and extent to which end and side doors are secured varies among passenger operators. When doors may be opened with excessive ease, a risk exists that passengers will unwittingly fall from moving trains. Of particular concern is the need to secure passenger train end doors against casual operation.

However, full, interlocked securement may greatly complicate evacuation in emergency situations. In some situations when a train is departing, the train doors must be open as it leaves the station for the crew to observe the platform area. In some situations when a train is arriving, the train doors must also be open to allow trap doors to be raised to minimize dwell time in stations not equipped with floor-level platforms. A signal light that displays the status of the doors to the crew in the control cab may have value for departing trains. Many railroads currently employ such a display light. Should passenger car doors be secured while the train is in motion during normal operations? What provision should be made for operation of doors by passengers in emergency situations? To what extent does the railroad's operating environment (elevated structures, tunnels, etc.) bear on resolving this question?

Ground-Level Stations

Ground-level stations are economical responses to light-density boarding in both commuter and intercity service. However, particularly where multiple tracks are present, the environment presents the possibility that passengers may be struck by moving trains. Attention needs to be directed toward the design of the interface of the ground-level station to the train to ensure passengers can safely board and leave the train. What station-to-train interface design features are desirable to minimize the possibility of injuries resulting from boarding or departing the train? What warning is appropriate for the arrival of passenger trains? Should movement of freight trains through stations be announced? What measures are appropriate to safeguard passenger movements in stations? What alternatives have been implemented in the United States? Internationally? With what success? What costs are associated with alternative measures to safeguard passenger movements in ground level stations? When is construction of pedestrian overpasses and fencing warranted?

Floor-Level Platforms

Station platforms that are elevated to the level of the passenger car floor permit prompt boarding and can be arranged to provide better access for persons with disabilities. However, concern has been expressed with regard to movement of trains through stations on tracks that are adjacent to platforms. Attention needs to be directed toward the design of the interface of the floor-level platform to the train to ensure passengers can safely board and leave the train. What platform-to-train interface design features are desirable to minimize the possibility of injuries resulting from boarding or departing the train? What warning is appropriate for the arrival of trains?

High-Speed Movements through Stations

Express trains often move through passenger stations without stopping, sometimes on tracks immediately adjacent to areas where passengers are waiting to board local trains. Could movement of high-speed express trains through stations present an unreasonable risk? If so, how could that risk be mitigated? What measures are utilized by passenger railroads currently facing this situation? At what costs can alternative measures be implemented to mitigate risks of high-speed express trains through stations?

Additional Economic Impact Information

Information available to FRA suggests that there are about 8,200 passenger cars and 970 conventional locomotives dedicated to rail passenger service in the United States. Is this information accurate? What ridership levels are experienced through the year? Would meeting the new higher standards described in Appendix B result in higher fares? If so, how much higher? Would a decrease in ridership be anticipated? If so, to what extent? Please explain the method of estimation. To which alternative forms of travel would lost ridership be expected to switch? How has this conclusion been reached? What assumptions have been made? FRA is interested in obtaining copies of studies or other documentation addressing the issue of passenger diversion from rail to other modes of travel as a result of new rail safety standards. What factors have the greatest effect on ridership levels: price, seat availability, trip time, variability in trip time, etc.?

Appendix D lists the economic questions posed by this ANPRM.

Regulatory Impact

FRA will evaluate any proposed action and its potential impacts to determine whether it would be considered significant under Executive Order 12866 or DOT policies and procedures (44 FR 11034, Feb. 26, 1979). Due to the substantial impact this rulemaking may have on a major transportation safety problem, this rulemaking is expected to be classified as significant pursuant to DOT Order 2100.5. FRA will also examine any proposed action and its potential impacts to determine whether it will have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

FRA will further evaluate any proposed rule pursuant to DOT regulations implementing the National Environmental Policy Act (42 U.S.C. 432 *et seq.*).

Any proposed action will be further evaluated to determine information collection burdens pursuant to the Paperwork Reduction Act. Any proposed action will be evaluated pursuant to Executive Order 12612 to determine whether it would have substantial 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.

The economic impact of any rule that may be proposed on the subject of passenger equipment safety standards cannot be accurately quantified with the information currently available to FRA. An analysis of the economic impact will be made after evaluating the data

submitted in response to this ANPRM, and the findings of that analysis will be published as part of any further notices of rulemaking issued in this matter. In addition, without fully evaluating the comments solicited by this ANPRM, it is impossible to determine what action FRA will take with regard to the other areas addressed by this ANPRM, and thus it is impossible to determine the economic impact of those changes at this time. Furthermore, any action taken by FRA is expected to result in the prevention or mitigation of accidents, personal injuries and property damage. However, until FRA fully considers the comments requested by this ANPRM and determines what action it will take, these benefits cannot be quantified.

Comments and Hearing

FRA solicits the submission of written comments, which should be filed in triplicate with the Docket Clerk at the address provided above. Specific responses to the questions set forth in this notice would be appreciated. The comment period will close on July 9, 1996, so that all comments can be presented to the Working Group before its next scheduled meeting in July 1996. When responding, reference to the topic or question number in the ANPRM will ensure full consideration of the comments submitted.

FRA has not currently scheduled a public hearing in connection with this ANPRM. Any interested party desiring an opportunity for oral comment should submit a written request to the Docket Clerk before the end of the comment period.

Issued in Washington, DC on June 5, 1996.

Jolene M. Molitoris,

Administrator, Federal Railroad Administration.

Appendix A—Sample System Safety Plan Elements

The outline that follows describes the elements of a system safety plan for a safety program for the development of a new high-speed passenger trainset. Safety programs for less complex procurements of new equipment might be greatly simplified versions of this plan.

General Description

1. The system safety plan shall describe the system safety program to be conducted as part of the trainset design process to ensure all safety-critical issues and Federal safety requirements are identified and addressed.

2. The system safety program shall ensure safety issues are treated equal to cost and performance issues when design trade-offs are made. The basis for making safety-related design trade-offs shall be documented.

3. The system safety plan shall be the top level document—completed as one of the first design process deliverables—used as guidance for the development of the following lower level safety planning and design guidance documents:

a. Fire Protection Engineering Plan.

b. Software Safety Plan.

c. Inspection, Testing, and Maintenance Plan.

d. Training Plan.

e. Pre-Revenue Service Acceptance Test Plan

4. The system safety plan shall describe the approaches to be taken to accomplish the following tasks or objectives:

a. Identification of all safety requirements including Federal requirements governing the design of the trainset and its supporting systems.

b. Evaluation of the total system—including hardware, software, testing and support activities—to identify known or potential safety hazards over the entire life cycle of the equipment.

c. The process to be used to raise safety issues during design reviews.

d. The process to be used to eliminate or reduce the risk of the hazards identified.

e. The monitoring and tracking system to be used to track the progress made toward resolving safety issues, reducing hazards, and meeting safety requirements.

f. The development of the testing program to demonstrate that safety requirements have been met.

5. The system safety program shall include periodic safety reviews that result in safety action items being assigned and tracked.

6. The system safety program shall include adequate documentation to audit how the design meets safety requirements and to track how safety issues were raised and resolved.

7. The system safety plan shall address how operational limitations may be imposed if the design cannot meet certain safety requirements.

Fire Protection Engineering Plan

1. Develop a Fire Protection Engineering Plan to be used to design adequate fire safety into the trainset.

2. The Fire Protection Engineering Plan shall:

a. Require the system developer to complete a thorough analysis of the fire protection problem.

b. Require the system developer to use good fire protection engineering practice as part of the design of the trainset design process.

c. Describe and analyze the effectiveness of the steps to be taken to design the train to be sufficiently fire resistant to ensure the detection of a fire and the evacuation of the train before the fire, smoke or toxic fumes cause injury to the passengers or crew.

d. Identify, analyze and prioritize the fire hazards inherent in the design of the trainset.

e. Describe the design approach taken and justify the design trade-offs made to minimize the risk of each fire hazard.

f. Present an analysis and propose tests to demonstrate how the fire protection engineering approach taken will lead to a train which meets these fire protection standards.

g. Be a major subset of the overall System Safety Plan, and dovetail with the railroad's Emergency Preparedness Plan.

h. Present the analysis required to select materials which provide sufficient fire resistance to ensure adequate time to detect the fire and safely evacuate the train. The system developer shall also propose the tests to be conducted to demonstrate this analysis has basis in fact.

i. Present the analysis done to ensure the ventilation system does not contribute to the lethality of a fire.

j. Include the analysis performed to determine which train components require overheat protection. If overheat protection is not provided for a component at risk of being a source of fire, a solid rationale and justification for the decision shall be included in the plan.

k. Identify all unoccupied train compartments which contain equipment or material which poses a fire hazard, and analyze the benefit provided from including a fire or smoke detection system in each compartment identified. Fire or smoke detectors shall be installed in compartments where the analysis determines that they are necessary to ensure time for safe evacuation of the train. The analysis shall provide the reasoning why a fire or smoke detector is not necessary if the decision is made not to install one in any of the unoccupied compartments identified in the plan.

l. Include an analysis of the occupied and unoccupied spaces which require portable fire extinguishers. The analysis will include the proper type and size of fire extinguisher for each location.

m. Identify all unoccupied train compartments that contain equipment or material which poses a fire hazard risk. On a case-by-case basis, the plan shall analyze the benefit provided by including a fixed, automatic fire-suppression system in each compartment identified. The type and size of the automatic fire-suppression system for each necessary application shall be determined. A fixed, automatic fire suppression system shall be installed in compartments where the analysis determines they are necessary and practical to ensure time for safe evacuation of the train. The analysis shall provide the reasoning why a fixed, automatic fire suppression system is not necessary or practical if the decision is made not to install one in any of the unoccupied compartments identified in the plan.

n. Describe the procedures to be used for inspection, maintenance, and testing of all fire safety systems and equipment.

3. The system developer shall follow the design criteria, perform the tests, and follow the operating procedures called for in the plan.

Software Safety Plan

1. Trainset system software that controls or monitors safety functions shall be treated as safety-critical.

2. The system operator shall require the system developer to develop a software safety plan to guide the design, development, testing, integration and verification of computer programs used to control and/or monitor trainset functions.

3. The software safety plan shall include a description of how the following tasks will be accomplished or objectives achieved to ensure reliable, fail-safe system software:

a. Software design process used.

b. Software design documentation to be produced.

c. Software hazard analysis.

d. Software safety reviews.

e. Software hazard monitoring and tracking.

f. Software module level safety tests.

g. Safety tests of multiple modules combined to function as a software system.

h. Hardware/software integration safety tests.

i. Demonstration of overall software safety as part of the pre-revenue service tests of the trainset.

Inspection, Testing, and Maintenance Plan

1. The plan shall:

a. Provide adequate technical detail on the procedures to be followed by the system operator to ensure trainset safety does not deteriorate over time.

b. Be used as the basis for the trainset inspection, testing, and maintenance safety standards.

c. Contain the specific, detailed inspection, testing, and maintenance procedures and intervals required to ensure safe, reliable long-term operation of all train systems.

d. Focus on, and give priority to, those inspections, preventive maintenance procedures, and tests required to prevent any deterioration in train safety.

e. Include an inspection and maintenance program that ensures all systems and components of the train are free of general conditions that endanger the safety of the crew, passengers, or equipment. These conditions include but are not limited to:

i. Insecure attachment of components.

ii. Continuous accumulations of oil or grease.

iii. Improper functioning of components.

iv. Cracks, breaks, excessive wear, structural defects or weakness of components.

v. Leaks.

vi. Use of components or systems under conditions that exceed those for which the component or system is designed to operate.

2. The plan shall include a description of the process to be used to develop detailed information on the inspection, testing and maintenance procedures necessary for long-term safe operation of the trainset. This information shall include:

a. Safety Inspection Criteria and Procedures.

b. Testing Procedures/Intervals.

c. Predetermined corrective action to take upon failure of an inspection or test.

d. Scheduled Preventive Maintenance.

e. Maintenance Procedures.

f. Special Testing Equipment.

3. The plan shall set initial scheduled maintenance intervals conservatively. The intervals shall be extended only when thoroughly justified by accumulated operating data.

Training Plan

1. Develop a training plan to provide employees and contract personnel including supervisors with the knowledge and skills necessary to effectively implement the inspection, maintenance and testing program, and to safely do his/her job.

2. The training plan shall include the knowledge and skills necessary for electronic, computer software, and mechanical personnel.

3. The plan shall contain detailed descriptions of the training—crucial to the safe operation of the trainset— which will be required for each craft.

4. The plan shall contain the certification process to be used to be sure each employee in a safety sensitive position is fit and well qualified to do his/her job.

5. The training plan shall include the training necessary for supervisors to be able to adequately spot check the work of the inspection, maintenance and testing personnel that they supervise.

6. The training plan shall include:

a. Identification of all the knowledge and skills necessary to accomplish the tasks described in the inspection, testing, and maintenance plan.

b. Design of a training program including classroom instruction and hands-on experience to ensure that employees and supervisors are given the necessary knowledge and skills.

c. A means to measure that employees—including supervisors—have the necessary knowledge and skills.

d. Modules that specifically address technology used as part of the trainset that is new to the railroad industry.

e. A program of periodic refresher training to recertify employees and contract personnel.

f. A schedule to have the work force adequately trained prior to the start of revenue service.

Pre-Revenue Service Acceptance Testing Plan

1. Develop a pre-revenue service testing plan and fully execute the plan prior to introducing new equipment into revenue service.

2. The plan shall include:

a. Identification of any waivers of Federal safety regulations required for the tests or for revenue service operation of the trainset.

b. A clear statement of the test objectives. One of the major objectives shall be to demonstrate that the trainset meets safety design requirements when operated in the environment in which it is to be used.

c. A planned schedule for conducting the tests.

d. A description of the railroad property or facilities to be used to conduct the tests.

e. A detailed description of how the tests are to be conducted including:

i. Which components are to be tested;

ii. How they are to be tested;

iii. How frequently they are to be tested;

iv. What criteria are to be used to judge their performance; and

v. How the test results are to be reported.

f. A description of any special instrumentation to be used during the tests.

g. A description of the information or data to be obtained.

h. A description of how the information or data obtained is to be analyzed or used.

i. A clear description of any criteria to be used as safety limits during testing.

j. A description of the criteria to be used to measure or determine the success or failure of the tests. If acceptance is to be based on extrapolation of less than full level testing results, the analysis to be done to justify the validity of the extrapolation shall be described.

k. A description of any special safety precautions to be observed during the testing.

l. A written set of standard operating procedures to be used to ensure that the testing is done safely.

m. A verification of the inspection, maintenance, and testing procedures and criteria to be used for the revenue service operation of the trainset.

3. The system operator shall report the results of the pre-revenue service tests and correct any safety deficiencies in the design of the trainset or in the inspection, testing, and maintenance procedures.

4. If safety deficiencies cannot be corrected by design changes, operational limitations may be imposed on the revenue service operation of the trainset.

Standard Operating Procedures

1. Develop step-by-step standard operating procedures for performing all safety-critical or potentially hazardous trainset inspection, testing, maintenance or repair tasks.

2. Standard operating procedures shall:

a. Describe in detail each step required to safely perform the task;

b. Describe the qualifications necessary to safely perform the task;

c. Describe any precautions that must be taken to safely perform the task;

d. Describe the use of any safety equipment necessary to perform the task;

e. Be approved by the chief mechanical officer of the system operator;

f. Be approved by the responsible official for safety of the system operator;

g. Be read and understood by the employees and contractors performing the tasks;

h. Be enforced by supervisors with responsibility for accomplishing the tasks; and

i. Be updated and approved annually.

3. Knowledge of standard operating procedures shall be required to qualify an employee or contractor to perform a task.

Appendix B—Sample Design Standards Based on a Tiered Approach

Introduction

FRA offers this sample outline of tiered design requirements to help generate discussion on how to set safety standards for equipment. As discussed in the body of the ANPRM, it is not clear whether the distinction between various tiers would be based solely on operating speed, a risk analysis of the envisioned operating environment, or another method. For purposes of discussion, this appendix is based on two tiers determined solely by operating speed:

Tier I: Existing and future equipment designed for operation in an environment

with known risk or proven safe operation, *e.g.*, existing passenger equipment operating at speeds of 110 mph or less or up to 125 mph under specific waiver conditions.

Tier II: Equipment that is envisioned to operate in higher risk operating environments, *e.g.*, Amtrak's planned operation at 150 mph in the Northeast Corridor, or perhaps cab car forward operations under some sets of higher risk operating conditions.

(APTA takes exception to the possibility of including cab car forward operations in the Tier II category.)

FRA recognizes the need to address special equipment outside this two-tiered system, such as that operated by tourist and excursion railroads and private passenger cars. FRA also recognizes the possible need to identify additional tiers in the future, whether it be for an intermediate tier between Tiers I and II described above or for equipment intended to operate at very high speeds, *i.e.*, in excess of 150 mph.

(Amtrak agrees with the logic behind the tiered safety standard based on speed. The logical breaks for Amtrak are 0 to 90 mph, 90 to 125 mph, and 125 mph and above, thus creating a three-tiered standard.)

It is important to emphasize that neither FRA nor the Working Group has endorsed the parameters provided, except to the extent that they mirror existing rail safety laws. FRA intends that the parameters suggested in this appendix serve only as the starting point for discussion to help determine the parameters to be included in a subsequent Notice of Proposed Rulemaking (NPRM).

A. Crash Energy Management System Design Requirements

Tier I: (Note: Existing equipment designs do not typically incorporate crash energy management principles in an effort to mitigate the consequences of a collision. However, *future* designs of Tier I equipment should embrace the following guidelines.)

(APTA believes crash energy management design requirements should be applied only to Tier II equipment.)

1. Both the power vehicle and the passenger vehicle shall be designed with a crash energy management system to dissipate kinetic energy during a collision. The crash energy management system shall cause a controlled deformation and collapse of designated sections within the unoccupied volumes to absorb collision energy and reduce the decelerations on passengers and crew resulting from dynamic forces transmitted to occupied volumes.

2. The design of the power vehicle and each unit of the passenger vehicle shall consist of an occupied volume located between two normally unoccupied volumes. Where practical, sections within the unoccupied volumes shall be designed to be structurally weaker than the occupied volume. During a collision or derailment, the designated sections within the unoccupied volumes shall start to deform and eventually collapse in a controlled fashion to dissipate energy before any structural damage occurs to the occupied volume. Alternately, a crash energy management strategy shall be implemented by trainset.

3. The crash energy management system shall keep the train in line and on the track long enough to maximize the energy absorbed by controlled crushing of designated sections within unoccupied volumes of the train. The train shall be designed for controlled collapse of the designated sections within unoccupied volumes of the train, starting from the ends of the train and working toward the center of the train as the energy to be dissipated increases.

4. The trainset shall be designed for a crush distance and crush force that result in survivable volumes in all occupied areas of the trainset under the conditions of the collision scenario. A collision scenario needs to be defined to serve as a basis for design analysis of Tier I equipment's crash energy management system and structure. What parameters should be used to define this collision scenario?

5. The locomotive or power car cab shall be designed to limit the secondary impact deceleration of crew members to a maximum of 24g and an average of 16g for 250 milliseconds after initial impact under the conditions of the collision scenario.

6. The trainset shall be designed to limit the secondary impact deceleration acting on passengers in the leading passenger compartment to a maximum of 6g and an average of 4g for 250 milliseconds after initial impact under the conditions of the collision scenario.

7. The occupied volume of the power vehicle and the occupied volumes of the passenger vehicle shall be designed and constructed in a manner to preclude telescoping of the crushed unoccupied volume structure into the occupied volume.

8. The unoccupied volume of the power vehicle shall have a static end yield strength of no less than 50 percent of the required static end strength of the power vehicle occupied volume. The unoccupied volume of each unit of the passenger vehicle shall have a static end yield strength of no less than 50 percent of the required static end strength yield of the passenger unit occupied volume. Any deviation form this requirement must be fully justified by analysis or test.

9. The crash energy management system shall start to function at a static end load of no less than 50 percent of the required static end strength of the occupied volume, but no more than 90 percent of the actual static end strength of the occupied volume.

10. An analysis based on the collision scenario shall be performed to verify that the trainset crash energy management system meets the requirements of this section. Assumptions made as part of the analysis to calculate how the kinetic energy of the colliding passenger train is dissipated shall be fully justified. The analysis must clearly show that the designated energy absorbing sections within the unoccupied volumes of the trainset crush before collapse of the occupied volumes start and that the deceleration of people in the occupied volumes is limited to the levels required by paragraphs 5 and 6 above. This analysis shall be made available to FRA upon request.

(APTA points out that crash energy management design concepts have not been validated by tests or analysis for equipment operating in the speed range envisioned for Tier I equipment. APTA points to the need for a major research and physical testing program to demonstrate and validate crash energy management design benefits.)

(Amtrak is in full agreement with the concept of crash energy management, but similarly feels that some form of full-scale testing may be required to validate the computer simulations. Further, Amtrak warns that this type of testing is expensive by nature, and an effort to identify a funding source needs to be initiated now in order not to delay the rulemaking process.)

Tier II: Same requirements as above for Tier I equipment.

B. Structural Design Requirements

1. Static End Strength

Tier I: The current U.S. practice is to require both locomotives and coaches to have a minimum static end strength of 800,000 pounds without deformation. If a crash energy management design approach is taken, this requirement applies only to the occupied volume of the equipment. Unoccupied volumes may have a lesser static end yield strength.

Tier II: The longitudinal static yield strength of the trainset occupied volumes shall be no less than 1,000,000 pounds ultimate strength.

(APTA suggests that the static end strength requirements for both Tier I and Tier II equipment should be the same. APTA believes the occupants of the weaker car may suffer unduly in a collision of cars of differing strength.)

2. Anticlimbing Mechanism

Tier I: The current U.S. practice is to require locomotives (power cars) to have an anticlimbing mechanism capable of resisting an upward or downward vertical force of 200,000 pounds. This requirement is given in Association of American Railroads (AAR) Specification S–580, that became effective in August, 1990. Passenger coaches and MU locomotives (49 CFR 229.141(a)(2)) are required to have an anticlimbing mechanism capable of resisting an upward or downward vertical force of 100,000 pounds. How should the anticlimber requirements for Tier I equipment be specified to ensure maximum advantage is taken of the strength of the underframe to resist collision forces?

Tier II: a. Anticlimber engagements of each end of each interior trainset unit shall be designed to keep the trainset in line and on the track until the energy-absorbing capability of the crash energy management system has been exceeded and the strength of occupied volumes of the train start to be overcome.

b. Anticlimber engagements shall be capable of resisting both vertical and lateral buckling forces between units due to an acceleration of 1g acting on the total loaded mass including trucks of the heavier of the two coupled units.

3. Link Between Coupling Mechanism and Carbody

Tier I: The mechanical link which attaches the front coupling mechanism to the car body shall be designed to resist a vertical

downward thrust from the coupler shank of 100,000 pounds for any horizontal position of the coupler, without exceeding the yield points of the materials used.

Does this requirement provide protection to passengers and crew? If not, how should this parameter be specified?

Tier II: Same requirements as above for Tier I equipment.

4. Short Hood Structure (Non-MU Locomotives Only)

Tier I: The skin covering the short hood or forward-facing end of the locomotive shall be equivalent to a ½-inch steel plate with a 25,000 pounds-per-square-inch yield strength. Higher yield strength material may be used to decrease the thickness of the material as long as an equivalent strength is maintained. This skin shall be securely attached to the forward collision posts and shall be sealed to prevent the entry of flammable fluids into the occupied cab area. Does this requirement inhibit the application of crash energy management technology to Tier I equipment?

Tier II: Same requirements as above for Tier I equipment.

5. Collision Posts

Tier I: a. Locomotive Forward Collision Posts—Two collision posts are required, each capable of withstanding a shear load of 500,000 pounds at the joint of the collision post to the underframe without exceeding the ultimate strength of the joint. Each post must also be capable of withstanding, without exceeding the ultimate strength, a 200,000 pound shear force exerted 30 inches above the joint of the post to the underframe (AAR Specification S–580). This requirement is independent of train weight. Alternately, an equivalent end structure may be used in place of the two collision posts. The single end structure must withstand the sum of the forces required for each collision post.

b. MU Locomotive Rear Collision Posts—Two collision posts are required, each having an ultimate shear value of not less than 300,000 pounds at a point even with the top of the underframe member to which it is attached. If reinforcement is used to provide the shear value, the reinforcement shall have full value for a distance of 18 inches up from the underframe connection and then taper to a point approximately 30 inches above the underframe connection (49 CFR 229.141(a)(4)). FRA believes this requirement needs to be improved. The collision posts can easily be strengthened and lengthened (preferably full height to the roofline). An equivalent single end structure may be used in place of the two collision posts. The single end structure must be designed to withstand the sum of the forces required for the end posts. For analysis purposes, the required forces can be assumed to be evenly distributed at the end structure at the underframe joint.

c. Passenger Coach Collision Posts—Current U.S. practice is to require a pair of collision posts at each end of a passenger coach. If a passenger coach consists of articulated or otherwise permanently joined units, collision posts are required only at the ends of the permanently coupled assembly of units, not at the ends of each unit of the assembly. In other words, collision posts are required at ends of passenger equipment where coupling and uncoupling are expected. The requirements for passenger coach collision posts are identical to the requirements for locomotive rear collision posts. FRA believes this requirement needs to be improved. The collision posts can easily be strengthened and lengthened (preferably full height to the roofline). An equivalent end structure may be used in place of the two collision posts.

FRA believes a unified collision post requirement should apply to all Tier I passenger vehicles, to include coaches and power/cab cars. The collision posts should be stronger and preferably extend to the roofline. How should collision posts for Tier I passenger vehicles be specified?

Tier II: As discussed in the body of the ANPRM, FRA believes that a unitized type of end structure with integral collision and corner posts that extend to the roof line should be considered for a design standard for passenger equipment.

a. Strength of the Leading and Trailing Ends of a Trainset.

i. The leading and trailing ends of the trainset shall be equipped with an end structure capable of transmitting to the frame of the leading or trailing unit a horizontally applied longitudinal load of 1,000,000 pounds uniformly applied at floor level decreasing uniformly with height to no less than 400,000 pounds uniformly applied at the roof line without exceeding the ultimate strength of the end structure.

(APTA points out that the need for and basis of the high roofline strength requirement has not been established.)

ii. A leading/trailing end structure may be used to meet requirements for corner posts and collision posts.

b. Strength of Collision Posts or End Structures. (Ends of trainset other than leading or trailing ends.)

i. Each end of a trainset unit designed for automatic coupling that is not a leading or trailing end of the trainset shall be equipped with collision posts or an end structure capable of transmitting to the frame of that unit a horizontal, longitudinal load of 600,000 pounds applied at floor level decreasing uniformly with height to no less than 240,000 pounds applied at the roof line without exceeding the ultimate strength of the collision posts or end structure.

(APTA points out that the need for and basis of the high roofline strength requirement has not been established.)

ii. A unitized end structure may be used to meet requirements for corner posts and collision posts.

6. Corner Posts

Tier I: Corner posts shall be full height (extending from underframe structure to roof structure) and capable of resisting a horizontal load of 150,000 pounds at the point of attachment to the underframe and a load of 80,000 pounds at the point of attachment to the roof structure without failure. The orientation of the applied horizontal load shall range from longitudinal inward to transverse inward. The corner posts may be positioned to provide protection or structural strength to the occupied volume.

Tier II: As discussed in the body of the ANPRM, FRA believes that a unitized type of end structure with integral collision and corner posts that extend to the roof line should be considered for a design standard for passenger equipment.

a. Strength of Corner Posts at the Leading or Trailing End of a Trainset:

i. The leading and trailing ends of the trainset shall be equipped with a corner post at the intersection of the end with each side.

ii. Each corner post shall be capable of resisting—without failure or deformation—a horizontal load applied at any point in a 90 degree arc from lateral to longitudinal of 333,000 pounds applied at floor level decreasing uniformly to no less than 133,000 pounds at the roof line.

iii. The corner posts may be part of the end structure.

b. Strength of Corner Posts Not at the Leading or Trailing End of a Trainset:

i. Each end of a trainset unit that is not a leading or trailing end of the trainset and that is equipped with automatic couplers shall be equipped with a corner post at the intersection of the end with each side.

ii. Each corner post shall be capable of resisting—without failure or deformation—a horizontal load applied at any point in a 90-degree arc from lateral to longitudinal of 200,000 pounds applied at floor level decreasing uniformly to no less than 80,000 pounds at the roof line.

iii. The corner posts may be part of the end structure.

(APTA does not believe that the corner post requirements proposed by FRA are realistic. APTA believes these proposed corner post requirements should be replaced with a requirement that the post be able to resist a load of 65,000 pounds applied at a point 30″ above the floor without permanent deformation.)

7. Crash Refuge

Tier I: (Note: Existing equipment designs do not typically incorporate crash energy management principles in an effort to mitigate the consequences of a collision. However, future designs of Tier I equipment should embrace the following guidelines.)

(APTA does not believe that crash refuge requirements should be applied to future designs of Tier I equipment.)

a. A refuge or survivable area to which the crew can retreat in the event of an impending collision shall be provided. This refuge or survivable area shall take maximum advantage of the structural strength of the power vehicle or control cab and include shock-mitigating material.

b. This refuge shall have the structural integrity and shock mitigation necessary to allow the crew to survive the accelerations and forces resulting from the collision scenario described as part of the recommended crash energy management system requirements.

c. The crash refuge shall be readily accessible for quick entry by the crew.

Tier II: Same requirements as above for Tier I equipment.

8. Rollover Strength

Tier I: There are no current industry or Federal specifications for rollover protection in locomotives or passenger equipment. The following are proposed examples of such requirements to protect crew and passengers in the event of a rollover scenario:

a. Locomotives should be able to withstand a uniformly applied load equal to 2g acting on the mass of the locomotive without failure of the cab side structure or the cab roof structure. (Local deformation of the side sheathing or roof sheathing in the cab area is permitted as long as a survivable volume is preserved in the crew compartment.)

(APTA believes that this specific requirement should be replaced with a more general requirement stating that locomotives shall be designed to provide a survivable volume in the crew compartment in the event of a rollover.)

b. Passenger coach and MU locomotive sides and roofs shall have sufficient structural strength to withstand the dynamic rollover force exerted by an acceleration of 2g acting on the mass of an individual vehicle or unit without collapse of the occupied volume. The occupied volume may deform to the extent that no more than 10 percent of initial volume is lost due to crush caused by the rollover. FRA believes existing North American designs will likely meet this requirement.

Tier II: Same requirements as above for Tier I equipment.

9. Side Impact Strength

Tier I:

a. A side impact design requirement would, among other things, protect passengers and crew from side collisions by heavy highway vehicles at grade crossings. Such a requirement may be particularly important for equipment with a floor height less than 36 inches above the top of the rail. A concept for the requirement is an ability to withstand the load applied by a loaded tractor trailer travelling at a selected speed colliding with the side of the car over an area and at a height typical of tractor trailer bumpers with a limited deformation of the car body structure. What specific parameters should be used to implement this concept or what alternate concepts can be proposed for a side impact strength design requirement?

b. If the highway vehicle is likely to override the trainset unit floor structure, the trainset unit side structures shall be designed to resist the resulting forces without penetration of the highway vehicle into the occupied volume of the trainset unit.

Tier II: Same requirements as above for Tier I equipment.

(APTA believes the advanced bus design side penetration requirements should be considered as an option to the requirements proposed by FRA.)

10. Truck-to-Car-Body Attachment

Tier I: The intent of the requirement in 49 CFR 229.141(a)(5) and (b)(5) is to keep the truck attached to the car body in the event of a derailment or rollover. In place of this requirement, new designs might be required to resist without failure a minimum force applied in any horizontal direction for the link which attaches the truck to the car body. The requirement under consideration is as follows:

a. For all trainset units, ultimate strength of the truck-to-car-body attachment shall be sufficient to resist without failure a force of 250,000 pounds or the force due to an acceleration of 4g acting in any direction on the mass of the truck, whichever is greater.

b. The mass of the truck includes axles, wheels, bearings, truck-mounted brake system, suspension system components, and any other components attached to the truck.

Tier II: Same requirements as above for Tier I equipment.

11. Strength of Attachment of Interior Fittings

a. Seat Strength:

Tier I:

i. All seat components shall be designed to withstand loads due to the impact of passengers at a relative speed of 25 mph.

ii. The seat back shall include shock-absorbent material to cushion the impact of passengers with the seat ahead of them.

Tier II: Same requirements as above for Tier I equipment.

b. Seat Attachment Strength:

Tier I:

i. Passenger and crew seats shall be securely fastened to the car structure in a manner so as to withstand an acceleration of 4g acting in the vertical direction on the deadweight of the seat or seats, if a tandem unit.

ii. The ultimate strength of a seat attachment must be such that the seat attachment is able to resist the longitudinal inertial force of 8g acting on the mass of the seat plus the impact force of the mass of the passenger(s) being decelerated from a relative speed of 25 mph.

Tier II: Same requirements as above for Tier I equipment.

(APTA questions the basis for the seat strength and seat attachment strength requirements. APTA also believes the requirements should apply only to passenger seats, not to crew seats.)

c. Other Interior Fittings:

Tier I: Other interior fittings shall be attached to the car body with sufficient strength to withstand accelerations of 8g/4g/4g acting longitudinally/laterally/vertically on the mass of the fitting.

Tier II: In addition to the Tier I requirement provided above, the following is required:

The ultimate strength of a locomotive cab interior fitting and equipment attachment shall be sufficient to resist without failure loads due to accelerations of 12g/4g/4g longitudinally/laterally/vertically acting on the mass of the fitting or equipment.

(APTA recommends a 3g/3g/3g requirement for the strength of attachment of interior fittings for both Tier I and Tier II equipment.)

d. Luggage Stowage Compartment Strength:

Tier I:

i. Luggage stowage compartments shall be of enclosed aircraft type.

ii. Ultimate strength shall be sufficient to resist loads due to accelerations acting longitudinally/laterally/vertically of 8g/4g/4g on the mass of the luggage stowed.

(APTA recommends the following requirement for Tier I equipment: Passenger luggage stowage racks shall provide longitudinal restraint for stowed articles.)

Tier II: Same requirements as above for Tier I equipment.

(APTA recommends 3g/3g/3g for Tier II equipment luggage stowage compartments)

e. Interior Surface Fittings:

Tier I:

i. To the extent possible, interior fittings shall be recessed or flush-mounted.

ii. Corners and sharp edges shall be avoided.

iii. Energy-absorbent material shall be used to pad surfaces likely to be impacted by passengers or crew members during collisions or derailments. (APTA recommends deleting this requirement.)

Tier II: Same requirements as above for Tier I equipment.

C. Glazing

Tier I: As addressed in the body of the ANPRM, FRA believes that portions of the current glazing requirements in 49 CFR Part 223 may need to be revised to adequately protect crew members and passengers. In this proceeding or a separate future proceeding, FRA may ask for consideration of modifications to 49 CFR Part 223 to address the concerns listed below:

1. The witness plate used for testing is too thick, allowing spalling of pieces of glass large enough to cause injury;

2. The impact test using a 24-pound cinder block is not repeatable;

3. Vendors or materials should be periodically recertified by an independent testing laboratory;

4. The strength of the framing arrangement securing the glazing is neither specified nor tested; and

5. Interior glass breakage in the event of a collision poses a significant hazard to passengers.

Tier II: FRA believes that the following requirements address the concerns listed above, and also address additional issues necessary to provide adequate protection to crew and passengers in the higher risk environments in which Tier II equipment will be operating.

1. Anti-Spalling Performance—.001 aluminum witness plate, 12 inches from glazing surface, no marks in witness plate after any test.

2. Bullet Impact Performance—Able to stop without spall or bullet penetration a single impact of a 9-mm, 147-grain bullet traveling at an impact velocity of 900 feet/second with no bullet penetration or spall.

3. Large Object Impact Performance.

a. End Facing—Impact of a 12-pound solid steel sphere at the maximum speed at which the vehicle will operate, at an angle equal to the angle between the glazing surface as installed and the direction of travel, with no penetration or spall.

b. Side Facing—Impact of a 12-pound solid steel sphere at 15 mph, at an angle of 90 degrees to the surface of the glazing, with no penetration.

4. Small Object Impact Performance.

a. Side Facing—Impact of a granite ballast stone with major and minor axes of no

greater than 10 percent difference in length, weighing a minimum of 0.5 pounds, travelling at 75 mph, impacting at a 90-degree angle to the glazing surface, with no penetration or spall.

5. Frame Strength—Frame holds glazing in place against all forces that do not cause glazing penetration.

6. Passing Trains—Glazing and frame shall resist the forces due to air pressure differences caused by trains passing with the minimum separation for two adjacent tracks while traveling in opposite directions, each traveling at maximum speed.

7. Interior Glazing—Interior trainset glazing shall meet the minimum requirements of AS1 type laminated glass as defined in American National Standard ''Safety Code for Glazing Materials for Glazing Motor Vehicles Operating on Land Highways,'' ASA Standard Z26.1–1966.

D. Emergency Systems—Each Unit and Each Level of Bi-Level Units

Tier I:

1. *Emergency Lighting.*

a. Illumination level shall be a minimum of 5 foot-candles at floor level for all potential trainset evacuation routes.

b. A back-up power system capable of operating all emergency lighting for a period of at least two hours shall be provided.

c. The back-up power system shall be capable of operation in all trainset unit orientations. (APTA recommends adding ''within 45 degrees of vertical'' to the end of this requirement.)

d. The back-up power system shall be capable of operation after the initial shock of a collision or derailment. (APTA proposes a 3g shock load.)

2. *Emergency Communication.*

a. Both interior and exterior locations of emergency communications equipment shall be specified. Exterior locations must be compatible with communication equipment normally carried by emergency response personnel. Interior locations must be provided at both ends of every level of passenger units, for passengers to communicate emergency conditions to the trainset operator.

b. Back-up power—Emergency communication system back-up power shall be provided for a minimum time period of two hours.

c. Clear, concise instructions for emergency use shall be posted at all potential evacuation locations.

(APTA recommends that these requirements be deferred to the Passenger Train Emergency Preparedness Working Group.)

3. *Emergency Equipment.*

a. Locations of emergency equipment shall be clearly marked.

b. Clear, concise instructions for use of emergency equipment shall be posted at each location.

(APTA recommends that these requirements be deferred to the Passenger Train Emergency Preparedness Working Group.)

4. *Emergency Exits.*

a. Locations of emergency exits shall be clearly marked and lighted.

(APTA recommends eliminating lighted)

b. Clear, concise instructions for use of the emergency exits shall be posted at each location.

c. Number of exits required:

i. Four windows—one located at each end of each side—of a passenger coach shall operate as emergency exits.

ii. If the coach is bi-level, four windows—one located at each end of each side—on each level shall operate as emergency exits.

iii. For special design cars, such as sleepers, each compartment shall have at least one emergency exit.

d. Size—Passenger coach sealed window emergency exits shall have a minimum free opening of 30 inches wide by 30 inches high. (APTA recommends 18 inches wide by 24 inches high.)

e. Each locomotive or power cab shall have a minimum of one roof hatch emergency exit with either a minimum opening of 18 inches by 24 inches or a clearly marked structural weak point in the roof to provide quick access for properly equipped emergency personnel. (APTA recommends eliminating this requirement.)

f. Each passenger coach or passenger service car shall be equipped with either a minimum of two roof hatch emergency exits with a minimum opening of 18 inches by 24 inches (APTA recommends eliminating the size requirement) or a clearly marked structural weak point in the roof to provide quick access for properly equipped emergency personnel.

g. Each emergency exit shall be easily operable by passengers and crew members without requiring the use of any special tools.

Tier II: Same requirements as above for Tier I equipment.

E. Doors (APTA recommends this section apply only to exterior powered side doors.)

Tier I:

1. The status of exterior doors shall be displayed to the crew. If door interlocks are used, the sensors used to detect train motion shall be accurate to within ±2 mph.

2. Doors shall be powered by the emergency back-up power system.

3. Doors shall be equipped with a manual override that can be used to open doors without power both from outside and inside the trainset. Instructions for manual override shall be clearly posted in the car interior at door locations.

4. Doors shall be easily operable by passengers and crew members following a derailment or collision without requiring the use of any special tools to accomplish the manual override in the event of head-end power loss.

5. Doors shall open outward to facilitate timely egress in the event of a collision or derailment.

Tier II: Same requirements as above for Tier I equipment.

F. Fuel Tanks

Tier I:

1. *External Fuel Tanks.*

a. Height off rail—With all locomotive wheels resting on the ties beside the rail, the lowest point of the fuel tank shall clear an 8.5-inch combined tie plate/rail height by a minimum of 1.5 inches. This requirement results in a minimum 10-inch vertical distance from the lowest point on the wheel tread to the lowest point on the fuel tank.

b. Bulkhead and skin—material, thickness, and strength.

i. Bulkheads—1-inch steel plate with 25,000 psi yield strength. Higher yield-strength steel may be used to decrease the thickness required as long as equivalent strength is maintained.

ii. Skin—1/2-inch steel plate with 25,000 psi yield strength or equivalent. Higher yield-strength steel may be used to decrease the thickness required as long as equivalent strength is maintained.

iii. The material used for construction of fuel tank exterior surfaces shall not exhibit a decrease in yield strength or penetration resistance in the temperature range of 0 to 160 °F.

c. Compartmentalization—The interior of fuel tanks shall be divided into a minimum of four separate compartments designed so that a penetration in the exterior skin of any one compartment shall result in loss of fuel only from that compartment.

d. Vent system spill protection—Fuel tank vent systems shall be designed to prevent them from becoming a path of fuel loss in the event the tank is placed in any orientation due to a locomotive overturning.

e. The bottom surface of the fuel tank shall be equipped with skid surfaces to prevent sliding contact with the rail or the ground from easily wearing through the tank.

f. Structural Strength—The structural strength of the tank shall be adequate to support 1.5 times the dead weight of the locomotive without deformation of the tank.

2. *Internal Fuel Tanks.*

a. ''Internal fuel tank'' is defined as a tank whose lowest point is at least 18 inches above the lowest point on the locomotive wheel tread and that is enclosed by, or is part of, the locomotive structure.

b. Compartmentalization—The interior of fuel tanks shall be divided into a minimum of four separate compartments designed so that a penetration in the exterior skin of any one compartment shall result in loss of fuel only from that compartment.

c. Vent system spill protection—Fuel tank vent systems shall be designed to prevent them from becoming a path of fuel loss in the event the tank is placed in any orientation due to a locomotive overturning.

d. Internal fuel tank bulkheads and skin shall be 3/8-inch steel plate with 25,000-lb yield strength or material with equivalent strength. Skid plates are not required.

Tier II: Same requirements as above for Tier I equipment.

G. Cab Controls, Interior and Safety Features

Tier I:

1. *Slip/Slide Alarms* (49 CFR 229.115).

a. Each power vehicle/control cab shall be equipped with an adhesion control system designed to automatically detect a loss of adhesion during power application and then reduce power to limit wheel slip. (APTA recommends eliminating this requirement.)

b. The adhesion control system shall also automatically adjust the braking force on

each wheel to prevent sliding during braking. In the event of a failure of this system to prevent wheel slip/slide within preset parameters, a visual and/or audible wheel slip/slide alarm shall alert the train operator. The slip/slide alarm shall alert the operator in the cab of the controlling power vehicle/control car to slip/slide conditions on any powered axle of the train. (APTA recommends eliminating this requirement.)

c. Each powered axle shall be monitored for slip/slide. (APTA recommends moving this requirement to passenger equipment power brake rules.)

2. Operator controls in the power vehicle/control cab shall be arranged to be comfortably within view and within easy reach when the operator is seated in the normal train control position.

3. The control panels shall be laid out to minimize the chance of human error.

4. Control panel buttons, switches, levers, knobs, etc., shall be distinguishable by sight and by touch.

5. An alerter shall be provided. The alerter may allow the operator freedom of movement in the control cab but shall not allow the operator to move outside the area in which control of the train is exercised while the train is in motion.

6. *Cab Information Displays.*

a. Simplicity and standardization shall be the driving criteria for design of formats for the display of information in the cab.

b. Essential, safety-critical information shall be displayed as a default condition.

c. Operator selection shall be required to display other than default information.

d. Cab/train control signals shall be available as a display option for the operator.

e. Displays shall be easy to read from the operator's normal position under all lighting conditions.

7. *Pilots, Snowplows, Endplates.*

a. The power vehicle/control cab car shall be equipped with a structurally substantial endplate, pilot or snowplow which extends across both rails of the track.

b. The height of the endplate, pilot, or snowplow shall be greater than 3 inches and less than 6 inches off the rails.

8. *Headlights* (49 CFR 229.125)

a. The power vehicle/control cab shall be equipped with more than one headlight producing no less than 200,000 candela.

b. The headlights shall be focused to illuminate a person standing between the rails at 800 feet (1000 feet for Tier II) under clear weather conditions.

9. *Crew's Field of View.*

a. The cab layout shall be arranged so the crew has an effective field of view in the forward direction and to the right and left of the direction of travel.

b. Field-of-view obstructions due to required structural members shall be minimized.

c. The crew's position in the cab shall be located to permit the crew to be able to directly observe traffic approaching the train from either side of the train. (APTA recommends this requirement be revised to be measurable or be eliminated.)

10. *Seat Placement/Features.*

Seats provided for crew members shall:

a. Be equipped with quick-release lap belts and shoulder harnesses.

b. Be secured to the car body with an attachment having an ultimate strength capable of withstanding the loads due to accelerations of 12g/4g/4g acting longitudinally/laterally/vertically on the mass of the seat and the crew member occupying it. (APTA recommends a 3g/3g/3g requirement that applies only to the mass of the seat.)

c. Be designed so all adjustments have the range necessary to accommodate a 5th-percentile female to a 95th-percentile male.

d. Be equipped with lumbar support that is adjustable from the seated position.

e. Be equipped with force-assisted, vertical-height adjustment, operated from the seated position.

f. Have manually reclining seat backs, adjustable from the seated position.

g. Have adjustable headrests.

h. Have folding, padded armrests.

(APTA recommends that these requirements only apply to floor mounted seats.)

11. *Impact Mitigation.*

a. Sharp edges and corners shall be eliminated from the interior of the cab.

b. Interior surfaces of the cab likely to be impacted by crew members during a collision or derailment shall be padded with shock-absorbent material.

Tier II: Same requirements as above for Tier I equipment.

H. Fire Safety

Tier I:

1. A Fire Protection Engineering Plan shall be developed as part of the system planning process.

a. The fire protection engineering plan shall identify and evaluate the major sources of fire risk. (APTA recommends that this requirement be deleted.)

b. The plan shall describe the design steps taken to delay the onset of lethal conditions until the fire can be detected, the train stopped and all personnel safely evacuated. (APTA recommends that this requirement be deleted.)

2. The trainset ventilation system shall be designed so as not to contribute to the spread of flames or products of combustion.

3. Trainset roof design shall prevent high-voltage arcs from overhead catenaries from penetrating the skin or shell of the occupied spaces in the trainset. The roof shall not be susceptible to ignition due to high-voltage arcing. (APTA recommends that this requirement be deleted.)

4. Where possible, components that are potential sources of fire ignition shall be located outside occupied volumes and shall be separated from occupied volumes by a structural fire-resistant barrier. (APTA recommends that this requirement be deleted.)

5. Portions of the trainset structure separating major sources of ignition, of energy storage, or of fuel loading from the occupied volumes of the trainset shall have sufficient resistance to fire, smoke and fume penetration to allow time for fire detection and safe evacuation of the trainset. (APTA recommends that this requirement be deleted.)

6. All materials and finishes used or installed in the construction of the trainset shall have sufficient resistance to fire, smoke and fume production to allow sufficient time for fire detection, for the trainset to stop, and for safe evacuation of passengers before lethal conditions develop. (APTA recommends that this requirement be deleted.)

7. At a minimum, the materials used for the construction of cab interiors including but not limited to walls, floors, ceilings, seats, doors, windows, electrical conduits, air ducts and any other internal equipment shall meet FRA guidelines published in the Federal Register on January 17, 1989. (See 54 FR 1837, ''Rail Passenger Equipment; Reissuance of Guidelines for Selecting Materials to Improve Their Fire Safety Characteristics''; see also the latest National Fire Protection Association ''NFPA 130, Standard for Fixed Guideway Transit Systems.'')

8. *Detection and Suppression.*

a. Fire extinguishers shall be placed in each unit.

b. All trainset components with a potential to overheat in the event of a malfunction to the extent they could be the source of an on-board fire shall be equipped with overheat warning devices. These components shall include, but not be limited to:

i. Diesel Engines;

ii. Traction Motors;

iii. Dynamic Brake Energy Dissipation System Components;

iv. Transformers;

v. Inverters; and

vi. Head-End Power Generation Systems.

(APTA recommends that the system safety plan determine how to handle components that could overheat rather than requiring detection devices.)

Tier II: Same requirements as above for Tier I equipment.

I. Electrical System Design

No one specific, industry electrical standard adequately addresses all of the electrical safety issues relating to the operation of a trainset. As safe operation of trains becomes more dependent on electronic technology, reliable electrical and electronic systems become crucial. The industry standard most appropriate for each major component of the trainset electrical system needs to be carefully selected.

The requirements provided below are intended for Tier I and Tier II equipment, as applicable.

1. Conductor Sizes—Conductor sizes shall be selected on the basis of current-carrying capacity, mechanical strength, temperature, flexibility requirements and maximum allowable voltage drop. Current-carrying capacity shall be derated for grouping and for operating temperature in accordance with nationally recognized standards.

2. Circuit Protection.

a. The main propulsion power line shall be protected with a lightning arrestor, automatic circuit breaker and overload relay. The lightning arrestor shall be run by the most direct path possible to ground with a connection to ground of not less than No. 6 AWG. These overload protection devices shall be housed in an enclosure designed specifically for that purpose with arc chute vented directly to outside air.

b. Head end power including trainline power distribution shall be provided with both overload and ground fault protection.

c. Circuits used for purposes other than propelling the trainset shall be connected to their power source through correctly sized circuit breakers or circuit breaking contactors.

d. Each auxiliary circuit shall be provided with a circuit breaker located as near as practical to the point of connection to the source of power for that circuit. Such protection may be omitted from circuits controlling crucial safety devices.

3. Battery System.

a. The battery compartment shall be isolated from the cab by a non-combustible barrier.

b. Battery chargers shall be designed to protect against overcharging.

c. Battery circuits shall include an emergency battery cut-off switch to completely disconnect the energy stored in the batteries from the load.

d. If batteries are of the type to potentially vent explosive gases, the battery compartment shall be adequately ventilated to prevent accumulation of explosive concentrations of these gases.

4. Power Dissipation Resistors.

a. Power dissipating resistors shall be adequately ventilated to prevent overheating under worst-case operating conditions.

b. Power dissipation grids shall be designed and installed with adequate air space between resistor elements and combustible material.

c. Power dissipation resistor circuits shall incorporate warning or protective devices for low ventilation air flow, over-temperature and short circuit failures.

d. Resistor elements shall be electrically insulated from resistor frames, and the frames shall be electrically insulated from the supports that hold them.

e. The current value used to determine the size of resistor leads shall not be less than 120 percent of the RMS load current under the most severe operating conditions.

5. Electromagnetic Interference/ Compatibility.

a. No trainset system shall produce electrical noise that interferes with trainline control and communications or with wayside signaling systems.

b. To contain electromagnetic interference emissions, suppression of transients shall be at the source wherever possible.

c. Trainset electrical/electronic systems shall be capable of operation in the presence of external electromagnetic noise sources.

d. All electronic equipment shall be self-protected from damage and/or improper operation due to high voltage transients and long-term over-voltage or under-voltage conditions.

J. Inspection, Testing, and Maintenance

Tier I: The operating railroad shall provide detailed information on the inspection, testing, and maintenance procedures necessary for long-term safe operation of the trainset. This information should include:

1. Testing Procedures/Intervals;
2. Scheduled Preventive Maintenance;
3. Maintenance Procedures;
4. Special Testing Equipment; and
5. Training of Mechanical Forces.

Tier II: Same requirements as above for Tier I equipment.

K. Brake System

Existing brake system equipment must meet the applicable requirements of 49 CFR Parts 229, 231, and 232, and 49 U.S.C. Chapters 203 and 207 as they relate to the specific equipment and operation.

FRA has recognized that the current regulations fail to adequately delineate between requirements for conventional freight braking systems and the more diverse systems for various categories of passenger service. FRA also recognizes that the regulations should be updated to recognize the contemporary electronic systems that are used to control elements of power brake systems.

In response to the above concerns, FRA published a NPRM for power brake regulations in September 1994. Four public hearings were held to discuss particular issues regarding the proposed rules, and FRA is in the process of reviewing comments received for inclusion in a revision to the original proposed rule.

Proposed brake system design requirements for Tier I and II equipment will be determined by the Passenger Equipment Safety Standards Working Group using the information on passenger equipment brakes accumulated in docket PB–9 in response to the NPRM on power brakes.

L. Automated Monitoring and Diagnostics

As train speed increases, the human decision and reaction time necessary to avoid potential calamity decreases. Automatic control techniques that briefly take the operator out of the control loop are a means to eliminate the delays associated with human decision and reaction in situations where taking quick and positive action can be crucial. (APTA recommends that this paragraph be deleted.)

Tier I: There are no current requirements for Tier I equipment to incorporate automatic monitoring and control measures as described above. Specific functions are identified below for Tier II equipment, as increased train speeds and higher risk operating environments make reactions to these functions more time-sensitive with respect to safety. If the functions identified below can be shown to be practically and economically feasible in Tier I equipment, implementation should be considered. (APTA recommends no such requirements for Tier I equipment.)

Tier II:

1. The trainset shall be equipped with a system that monitors the performance of the following safety-critical items:

a. Reception of Cab Signals/Train Control Signals;
b. Truck Hunting;
c. Dynamic Brake Status;
d. Friction Brake Status;
e. Fire Detection Systems;
f. Head End Power Status;
g. Alerter;
h. Horn and Bell;
i. Wheel Slip/Slide; and
j. Tilt System, if so equipped.

2. The monitoring system shall alert the operator when any of the monitored parameters are out of predetermined limits. In situations where the system safety analysis indicates that operator reaction time is crucial to safety, the monitoring system shall take immediate, automatic corrective action such as limiting the speed of the train.

3. The self-monitoring system shall be designed with an automatic self-test feature that notifies the operator that the system is functioning correctly.

M. Trainset System Software

The requirements provided below are intended for Tier I and Tier II equipment, as applicable.

1. Software used to monitor and control trainset safety features or functions shall be treated as safety-critical.

2. A formal system software safety program shall be used to develop the system software. This program shall include a software hazard analysis and thorough software design walk-through and verification tests to ensure software is reliable and designed to be fail-safe.

(APTA recommends that Section M be eliminated.)

N. Trainset Hardware/Software Integration

The requirement provided below is intended for Tier I and Tier II equipment, as applicable.

1. A comprehensive hardware/software integration program shall be planned and conducted to demonstrate that the software functions as intended when installed in a hardware system identical to that to be used in service.

O. Suspension System Design Requirements

Tier I: FRA does not currently address suspension system requirements for passenger equipment.

Tier II:

1. The suspension system shall be designed so no single wheel lateral to vertical force (L/V) ratio is greater than 0.8 for a duration required to travel 3 feet at any operating speed or over any class of track used by the trainset unless the axle sum ratio is less than 1.0. The L/V should be measured with an instrument with a band pass of 0 to 25 Hz.

2. Net axle lateral force may not exceed 0.5 times the static vertical axle load.

3. The minimum vertical wheel/rail force shall be a minimum of 10 percent of the static vertical wheel load.

4. The maximum truck side L/V ratio shall not exceed 0.5.

5. When positioned on track with a uniform 6-inch superelevation, trainsets shall have no wheel unload to a value less than 60 percent of its static value on perfectly level track.

6. When the equipment is positioned on level, tangent track, and any one wheel is raised by three inches, no other wheel of the equipment shall unload to a value of less than 0.65 times the weight of the unit divided by the number of wheels supporting the unit. (Builders of passenger equipment take exception to this proposed requirement as too stringent. They prefer a more flexible requirement allowing individual railroads to

define wheel unloading requirements for safe operation under worst case track conditions for the intended use of the equipment. Compliance with this requirement must be demonstrated as part of the vehicle qualification tests.)

7. All Tier II equipment shall be equipped with lateral accelerometers mounted above an axle of each truck. The accelerometer output signals shall be accurately calibrated and shall be passed through signal conditioning circuitry designed to determine if hunting oscillations of the truck are occurring. Hunting oscillations are defined as six or more consecutive oscillations having a peak acceleration in excess of 0.8g peak-to-peak at a frequency of between 1 and 10 Hz. If hunting oscillations are detected, the train monitoring system shall provide an alarm to the operator and automatically slow the train to a speed where hunting oscillations no longer occur before returning total control of the trainset to the operator.

8. Ride Vibration (Quality)—While traveling at the maximum operating speed over the intended route, the train suspension system shall be designed to:

a. Limit the vertical acceleration as measured by a vertical accelerometer mounted over the leading truck of each trainset unit to no greater than 0.55g single event, peak-to-peak.

b. Limit the lateral acceleration as measured by a lateral accelerometer mounted over the leading truck of each trainset unit to no greater than 0.3g single event, peak-to-peak.

c. Limit the combination of lateral and vertical events occurring within any time period of 2 consecutive seconds to the square root of (V^2+L^2) to no greater than 0.604—where L may not exceed 0.3g and V may not exceed 0.55g.

9. If hunting oscillations are detected on any equipment in the train, the maximum speed of that train shall be limited to 10 mph less than the speed at which hunting stops as the train speed is decreased from the initial hunting speed.

10. If the ride quality limitations of paragraph 8 of this section are exceeded, the operating speed shall be restricted to that which would result in a peak-to-peak lateral acceleration no greater than 0.25g and a peak-to- peak vertical acceleration no greater than 0.5g.

11. Passenger cars of a non-tilting design shall not operate under conditions resulting in a cant deficiency of greater than 6 inches or that corresponds to a steady-state lateral acceleration of 0.1g, whichever is less.

12. Trainsets of a tilting design shall not operate under conditions resulting in a cant deficiency greater than 9 inches or that corresponds to a steady-state lateral acceleration of 0.1g (measured parallel to the car floor), which ever is less.

13. All wheels shall be heat treated, curved-plate type or a design with equivalent resistance to thermal abuse.

14. Bearing overheat sensors are required. These are not required to be on board, and may be placed at reasonable wayside intervals. Periodic bearing inspection required at 50 percent of the L10 life at a load factor of 2.

P. General Locomotive/Power Car Design Requirements

Tier I: 1. All moving parts, high voltage equipment, electrical conductors and switches, and pipes carrying hot fluids or gases shall be installed in non-exposed locations or shall be appropriately equipped with interlocks or guards to minimize the chance of personal injury. (APTA recommends eliminating this requirement for Tier I equipment.)

Tier II: Same requirement as above for Tier I equipment.

Q. Power Vehicle/Control Cab Health and Comfort Design Features

Issues under this heading may be added to this proceeding following submission of FRA's Report to Congress on Locomotive Crashworthiness and Working Conditions.

R. Coupler/Draft System Performance (Only Leading and Trailing Couplers of Integral Trainsets)

Note: This requirement is applicable only for use in integral trainsets, envisioned to be prevalent in the higher speed operating environments of Tier II equipment. Otherwise, guidance regarding coupler/draft system performance requirements remain as specified.

Tier II: 1. Leading and trailing automatic couplers of the trainset shall be compatible with standard AAR couplers with no special adapters used. These couplers shall include automatic uncoupling devices that comply with the Safety Appliance Standards (49 CFR Part 231) and 49 U.S.C. 20302(a)(1)(A).

2. The leading and trailing trainset unit's coupler/draft system design shall include an anti-climbing feature capable of resisting without failure a minimum vertical force between the coupled units in either the up or the down direction resulting from an acceleration of 1g acting on the total mass including trucks of the leading or trailing unit of the trainset. The coupler/draft system itself may fail (shear back type coupler) to allow the anti-climbing feature to engage.

S. Safety Appliance Design Requirements

Tier I: Current safety appliance requirements are found at 49 CFR Parts 229, 231 and 232, and 49 U.S.C. Chapters 203 and 207. (Existing requirements which are statutorily based cannot be changed by this rulemaking.)

Tier II: 1. The leading and the trailing ends of the trainset shall be equipped with automatic couplers that:

a. Couple on impact and allow uncoupling without necessitating a person going between cars; and

b. Shall be activated either by a traditional uncoupling lever or some other means of automatic uncoupling mechanism that does not require a person to go between equipment units.

2. Leading and trailing end automatic couplers and uncoupling devices may be stored within a shrouded housing, but shall be easily removed when required for emergency use.

3. If the units of the trainset are semi-permanently coupled, with uncoupling done only at maintenance facilities, the trainset units need not be equipped with sill steps, end or side handholds.

4. If the units of the trainset are coupled with automatic couplers, the units shall be equipped with sill steps, end handholds and side handholds that meet the requirements of 49 CFR 231.14.

5. Passenger handrails or handholds shall be provided on both sides of steps used to board or depart the train.

6. Power vehicle and control cab exits shall be equipped with handholds and sill steps.

7. *Safety appliance mechanical strength.*

a. All handrails and sill steps shall be made of 1-inch diameter steel pipe or ⅝-inch thickness steel or a material of equal or greater mechanical strength.

b. All safety appliances shall be securely fastened to the carbody structure with mechanical fasteners that have mechanical strength greater than or equal to that of a ½-inch diameter SAE steel bolt mechanical fastener.

8. *Handrails.*

a. Throughout their entire length, handrails shall be a contrasting color to the surrounding vehicle body.

b. Vertical handrails shall be installed so as:

i. The maximum distance above the top of the rail to the bottom of the handrail shall be 51 inches and the minimum distance shall be 21 inches.

ii. To continue to a point at least equal to the height of the top edge of the control cab door.

iii. Minimum hand clearance distance between the handrail and the vehicle body shall be 2½ inches for the entire length.

iv. All vertical handrails shall be securely fastened to the vehicle body.

v. If the length of the handrail exceeds 60 inches, it shall be securely fastened to the power vehicle body with two fasteners at each end.

9. *Sill steps.*

a. Each power vehicle or control cab shall be equipped with sill steps below each door.

b. Power vehicle or control cab sill steps shall be a minimum cross-sectional area ½ by 3 inches, of steel or a material of equal or greater strength and fatigue resistance.

c. Sill steps shall be designed and installed so:

i. The minimum tread length of the sill step shall be 10 inches.

ii. The minimum clear depth shall be 8 inches.

iii. The outside edge of the tread of the sill step shall be flush with the side of the power vehicle or cab car body structure.

iv. Sill steps shall not have a vertical rise between treads exceeding 18 inches. The lowest sill step tread shall be not more than 20 inches above the top of the track rail.

v. The sill step shall be a color which contrasts with the surrounding power vehicle body color.

vi. All sill steps shall be securely fastened.

vii. As a minimum, 50 percent of the tread surface area shall be open space.

viii. The portion of the tread surface area which is not open space and is normally contacted by the foot shall be treated with an anti-skid material.

10. *Safety appliance mechanical fasteners.*

a. Safety appliance mechanical fasteners shall have mechanical strength and fatigue resistance equal to or greater than a ½-inch diameter SAE steel bolt.

b. Fasteners shall be installed with a positive means to prevent unauthorized removal.

c. Fasteners shall be installed to facilitate inspection.

11. Safety appliances installed at the option of the system operator shall be firmly attached with mechanical fasteners and shall meet the design and installation requirements given herein.

12. If two trainsets are coupled to form a single train by an automatic coupler, the coupled ends must be equipped with end handholds, side handholds and sill steps. If the trainsets are semi-permanently coupled, these safety appliances are not required.

BILLING CODE 4910–06–P

Appendix C.—AMTRAK Passenger Train Safety Inspection Criteria (Serves as a Sample Only)

LOCOMOTIVE QUICK REFERENCE CARD

INITIAL TERMINAL PRE-DEPARTURE INSPECTION

A LOCOMOTIVE IS TO BE IN COMPLIANCE WITH FOLLOWING OR WILL NOT BE ALLOWED TO CONTINUE IN SERVICE.

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218: PROVIDED FOR "WORKMEN, VENDORS OR CONTRACT PERSONNEL"

1. MAP COMPLETED FOR DAILY INSPECTION IN COMPLIANCE WITH 49-CFR PART 229/231/232/236
2. DEFECTS RECORDED ON MAP 9 ARE CORRECTED IN ACCORDANCE WITH 49-CFR 229.21 (a).
3. MAP 100 COMPLETE AND COPY IN CAB.
4. INSPECTION DATES CURRENT ON FRA FORM F 6180-49A IN CAB.
5. ALERTOR & SPEEDOMETER OVERSPEED FUNCTIONAL & PROPERLY SEALED.
6. ENSURE ALL REQUIRED SEALS, AS STATED ON MAP 100, ARE PROPERLY APPLIED AND SEALED
7. EVENT RECORDERS WORKING.
8. HEADLIGHTS, BELL, WINDSHIELD WIPERS & SANDERS ARE WORKING PROPERLY.
9. ALL HOSES ARE PROPERLY CONNECTED.
10. ALL WARNING ALARMS WORKING PROPERLY.
11. FUNCTIONAL HAND BRAKE OR PARK BRAKE.
12. LEAD LOCOMOTIVE MUST HAVE PROPERLY OPERATING RADIO.
13. TRAIN LINE COMPLETE RELAY SHALL NOT BE BY PASSED.
14. ALL CIRCUIT BREAKERS FUNCTIONING PROPERLY.

Amtrak

LOCOMOTIVE QUICK REFERENCE CARD

INITIAL TERMINAL PRE-DEPARTURE INSPECTION

A LOCOMOTIVE IS TO BE IN COMPLIANCE WITH FOLLOWING OR WILL NOT BE ALLOWED TO CONTINUE IN SERVICE.

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218: PROVIDED FOR "WORKMEN, VENDORS OR CONTRACT PERSONNEL"

ELECTRIC LOCOMOTIVES

15. NO CONDEMNABLE DISC CRACKS.
    a. CRACK MUST NOT BE ENTIRELY THROUGH EITHER A THREADED OR COUNTERSUNK BOLT HOLE.
    b. NO MORE THAN ONE CRACK ENTIRELY THROUGH DISC BETWEEN EITHER TWO COUNTERSUNK OR TWO THREADED BOLT HOLES.
    c. NO MORE THAN 3 CRACKS, ENTIRELY THROUGH DISC, ON EACH SIDE OF WHEEL UNLESS CONDEMNABLE BY ITEM A OR B ABOVE.

16. ENSURE TRACTION AND REACTION ROD BOLTS, NUTS, KEEPERS AND SAFETY HANGER/PINS ARE PROPERLY SECURE.

17. ENSURE PANTOGRAPH STRUCTURE HAS NO CRACKS, MISSINGS PINS, MISSING OR LOOSE SHUNTS, CRACKED SHOE CARBONS, BADLY CHIPPED CARBONS OR CARBONS WORN BELOW 1/4 IN.

18. ENSURE INSULATORS ARE FREE OF CRACKS WHICH WILL COLLECT DIRT PARTICLES AND PROVIDE CONDUCTIVE PATH FOR ELECTRIC CURRENT.

19. ENSURE PANTOGRAPH POLE IS IN PLACE.

NOTE: SUPERVISORS ARE REQUIRED TO MONITOR PERSONNEL TO ENSURE COMPLIANCE WITH THESE STANDARDS.

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1/01/94

LOCOMOTIVE QUICK REFERENCE CARD

INITIAL TERMINAL PRE-DEPARTURE INSPECTION

A LOCOMOTIVE THAT HAS ONE OF THE FOLLOWING DEFECTS WILL NOT BE ALLOWED TO CONTINUE IN SERVICE.

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218: PROVIDED FOR "WORKMEN, VENDORS OR CONTRACT PERSONNEL"

1. WHEEL DEFECTS.
   a. Flange thickness 1 in. or less at a point 3/8 in. above wheel tread.
   b. Flat spots 1 1/2 in. or more in length.
   c. Shelling/spalling 1 1/2 in. or more in length.
   d. Flange height 1 3/8 in. or more.
   e. Rim thickness 1 1/8 in. or less.
   f. Gouge or chip in flange more than 1 3/8 in. in length and 3/8 in. in width.
   g. Tread worn hollow more than 1/4 in.
   h. Crack or break in flange, tread, rim, plate or hub.
   i. Loose wheels.

2. DEFECTIVE TRUCKS.
   a. Pins not properly secured in place.
   b. Brake shoe keys missing.
   c. Brake shoes not aligned properly on the disc/tread of the wheel.
   d. Safety hangers loose, cracked, broken or missing.
   e. Outer coil spring broken or fully compressed .
   f. Shock absorbers leaking clearly formed droplets of fluid. (means a **fresh** accumulation of oil, grease which continually or slowly forms into beads.)
   g. Missing/broken shock absorber or mounting.
   h. Loose tie bars.
   i. Broken or cracked center castings, motor suspension lugs or frames.
   j. Maximum side bearing clearance NOT to exceeed 1/4 in. on each side or a total of 1/2 in. on both sides.
   k. Friction side bearings may not be run in contact unless designed to do so.

3. SAFETY APPLIANCE - DEFECTS
   a. Handrails, hand holds loose, cracked, broken or missing.
   b. Handrails, hand holds with less than 2 in. clearance.
   c. Missing, unsafely bent, cracked, loose, broken ladder steps or step treads.

LOCOMOTIVE QUICK REFERENCE CARD

INITIAL TERMINAL PRE-DEPERTURE INSPECTION

A LOCOMOTIVE THAT HAS ONE OF THE FOLLOWING DEFECTS WILL NOT BE ALLOWED TO CONTINUE IN SERVICE.

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218: PROVIDED FOR "WORKMEN, VENDORS OR CONTRACT PERSONNEL"

4. PILOTS, SNOW PLOWS, END SHEETS - CONDEMNING CLEARANCE
   a. Clearance above top of rail less than 3 in. or more than 6 in.

5. CAB SEATS - SAFETY DEFECTS
   a. Not securely mounted .
   b. Improper or unsecured latching device.
   c. Cracked or broken frame, mounting device or brace.

6. AIR BRAKE
   a. Piston travel must be properly adjusted.
      - F-40 - 2 1/2 in. to 3 1/2 in.
      - E-60 - 3/4 in. to 1 in.
      - FL9 - 5 in. to 7 in.
      - CF7 & GP9 - 2 1/2 in. to 3 1/2 in.
      - P32BH (DASH 8) 2 1/2 in. to 2 3/4 in.
   b. All shoes/pads shall have a minimun of 3/8 in. or more wear material and must be firmly seated against wheel/disc when brakes are applied.
   c. All shoes/pads must be free and clear of wheel/disc when brakes are released. (You may have to shake to assure release.)
   d. Brake cylinder pressure must not be less than 30 PSI.

NOTE: SUPERVISORS ARE REQUIRED TO MONITOR INSPECTION PERSONNEL TO ENSURE COMPLIANCE WITH THESE STANDARDS.

Amtrak®

1/01/94

CAR FLEET QUICK REFERENCE CARD

INITIAL TERMINAL

PRE-DEPARTURE INSPECTION

A CAR THAT HAS ONE OF THE FOLLOWING DEFECTS WILL NOT BE ALLOWED TO CONTINUE IN SERVICE.

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218: PROVIDED FOR "WORKMEN, VENDORS OR CONTRACT PERSONNEL"

1. WHEEL DEFECTS.
   a. Flange thickness 1 in. or less at a point 3/8 in. above wheel tread.
   b. Flat spots 1 1/2 in. or more in length.
   c. Shelling/spalling 1 1/2 in. or more in length.
   d. Flange height 1 3/8 in. or more.
   e. Rim thickness 1 1/8 in. or less.
   f. Any crack or break in the flange, plate or edge of tread or crack exceeding 1/2 in. in wheel tread see AAR RULE 41 sec A. (Not to be confused with Heat Checks. see AAR RULE 41 sec.E-21 Fig. A)
   g. A chip or gouge in the flange that is 1 1/2 in. in length and 1/2 in. or more in width.
   h. Axle that is cracked or broken.
   i. Axle that has a gouge between wheels that is 1/8 in. or more in depth.
2. ROLLER BEARINGS
   a. Roller bearing leaking lubricant in clearly formed droplets. (means a **fresh** accumulation of oil, grease which continually or slowly forms into beads.)
   b. Roller bearing end plate with loose or missing cap screw.
   c. Roller bearing end plate with broken, missing, or improperly applied cap screw lock.
3. DEFECTIVE TRUCKS
   a. Shoes/pads loose, key missing, improper alignment or worn to thickness of 3/8 in. or less.
   b. Levers, rods, brake beam & hangers worn more than 30% of cross sectional area.
   c. Any component not secured properly.
   d. Equalizer rubbing.
   e. Pedestal liner broken or missing.
   f. Shock absorber leaking clearly defined droplets (means a **fresh** accumulation of oil, grease which continually or slowly forms beads.)
   g. Leaf guider properly secured and not bent, broken or cracked (Superliners).
4. COUPLERS
   a. Uncoupling device without sufficient clearance (vertical and lateral) to prevent unintentional uncoupling or fouling on curves.

CAR FLEET QUICK REFERENCE CARD

INITIAL TERMINAL

PRE-DEPARTURE INSPECTION

A CAR IS TO BE IN COMPLIANCE WITH THE FOLLOWING OR WILL NOT BE ALLOWED TO CONTINUE IN SERVICE.

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218: PROVIDED FOR "WORKMEN, VENDORS OR CONTRACT PERSONNEL"

1. ELECTRICAL
   a. At maintenance yards the "short looping" of a train's 480 volt system is prohibited.
   b. Whenever loss of trainline occurs at the station or enroute "short looping" is permissible.
   c. When a mechanical department employee short loops a train the Conductor & Engineer must be notified in writing.
   d. After a train is short looped, it will proceed to it's final destination for inspection and repairs and AMTRAK National Ops shall be notified- ATS 728-2307/2308 BELL 215-349-2307/2308.
2. Emergency lights functioning properly.
3. Rear car marker lights functioning properly. If necessary, an approved portable marker light can be used.
4. On-Board surveillance system operating properly. (If equipped.)
5. EMERGENCY WINDOW.
   -Properly identified with operating handles properly installed.
6. Handbrake functioning properly.
7. All safety appliances comply with 49-CFR sections, 231.13 or 231.14. (all handhold clearances minimum 2 in.)
8. Train consist air brake leakage not to exceed 5 PSI per minute per AMT-3.
9. All brakes must apply and release.
   a. Actuators (disc and tread if equipped) must function properly.
   b. All shoes/pads must be firmly seated against wheel/disc in proper alignment when brakes applied.
   c. All shoes/pads must be free and clear of wheel/disc when brakes are released. ** (You may have to shake to assure release.)
   d. No cracks extending entirely through one of the wheel disc surfaces.
   e. Piston travel must not be more than 80% of the total possible piston travel.
10. All safety equipment in place and operational.
    (Fire extinguishers, wrecking bars, etc.)

NOTE: SUPERVISORS ARE REQUIRED TO MONITOR INSPECTION PERSONNEL TO ENSURE COMPLIANCE WITH THESE STANDARDS.

1/01/94

CAR FLEET
QUICK REFERENCE CARD
INSPECTION CRITERIA

INTERIOR

1. Check OMS (DMH) for Defects/Trends.
2. Check MAP 21A for Defects.
2. Inspect Breakers, Wiring, Panels/Electric Locker.
3. Inspect Onboard Hot Bearing System.
4. Inspect Carpeting/Curtains/Upholstery.
5. Check for Infestation.
6. Inspect Windows.
7. Inspect All Signage.
8. Inspect Seats/Food Trays.
9. Inspect Foot Rests/Leg Rests/Seat Locks.
10. Inspect Cushions/Cushion Attachment..
11. Ensure Proper Interior Temp.
12. Check Emergency Tools/First Aid Kits.
13. Inspect Fire Extinguisher/Inspection Date.
14. Inspect Sleeping Accommodations.
15. Ensure Proper Refrigerator Temp, 33°F to 40°F.
16. Ensure Freezer Temp - 0°F and Below.
    Amfleet I - 10°F and Below.
17. Inspect Door Gaskets/Gauges.
18. Inspect Hot Water Heater.
19. Inspect Dishwasher -
    Wash Cycle Temp 140°F to 160°F.
    Rinse Cycle Temp 160°F at Plate Surface.
20. Inspect All Food Service Equipment.
21. Inspect Restraining Devices.
22. Inspect Lighting System Emerg./OH/Reading.
23. Inspect Toilet Operation.
24. Inspect Sinks/Faucets.
25. Inspect All Piping/Hoses (Water System).
26. Inspect Hand Brake.
27. Inspect Diaphragm Curtain.
28. Inspect PA System.
29. Inspect Side/Trap Doors/Seals.
30. Inspect Collision Doors.
31. Inspect Body End Doors/Seals.

CAR FLEET
QUICK REFERENCE CARD
INSPECTION CRITERIA

EXTERIOR

31. Inspect for Exterior Carbody Damage.
32. Inspect Safety Appliances.
33. Inspect Hoses/Hangers (Brake System).
34. Inspect Diaphragms.
35. Inspect Couplers/Uncoupler Levers.
36. Inspect Entire Truck.
37. Ensure All Truck To Carbody Clearances.
38. Check Brake Pads.
39. Check Wheels for Condemning Limits.
40. Leaf Guider Properly Secured and Not Bent, Broken or Cracked.
41. Inspect Under Car for Damage.
42. Inspect 480V Cable System.
43. Inspect Wheel Slide System.
44. Inspect Battery Charger System.
45. Inspect Batteries.
46. Ensure Proper Freon Levels.
47. Inspect Freeze Protection Circuitry.

* Items in Red Must be in Full Compliance or the Car Cannot Leave.

1/26/94

1000 MILE INSPECTION

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218:

"WHEN A TRAIN IS ON A MAIN TRACK A BLUE SIGNAL MUST BE DISPLAYED ON EACH END OF THE ROLLING EQUIPMENT AND ON THE CONTROLLING LOCOMOTIVE AT A LOCATION READILY VISIBLE TO THE ENGINEMAN/OPERATOR"

1. AIR BRAKES

a. Inspect all brake hoses for condition and proper securement.
b. All angle cocks and cut-out cocks are properly positioned.
c. Brake pipe trainline must be charged with minimum 110 PSI air pressure.
d. All brake rigging and brake pads must be properly secured.
e. All brake shoes/pads have 5/16 in. or more wear material to complete the trip.
f. All brake rigging must be free of binding or fouling.
g. Trainline brake pipe leakage must not exceed 5 PSI per minute for entire consist.
h. After 20 lb brake pipe reduction is made from locomotive perform the following:
   - Each brake cylinder must be operational and inspected to ensure each brake shoe/pad is properly aligned and in contact with braking surface.
   - Piston travel is not to exceed 90% of total possible piston travel (ex.- If total piston stroke is 9 in. then piston travel cannot exceed 8 in.) Upon release of brakes ensure all disc pads and all tread shoes are completely released.

2. WHEELS

If one or more of the Following Condition(s) Exist, a Car <u>Can Not Continue in Service.</u>

a. Flange thickness 15/16 in. or less at a point 3/8 in. above wheel tread.
b. Flat spots 1 3/4 in. or more in length .
c. Shelling/spalling 1 3/4 in. or more in length or width.
d. Flange height 1 7/16 in. or more.
e. Rim thickness 1 in. or less.
f. Any crack or break in the flange, plate or edge of tread, or crack exceeding 1/2 in. in wheel tread per AAR RULE 41 sec. A (Not to be confused with heat checks. see sec. E-21 Fig. A.)

1000 MILE INSPECTION

BLUE SIGNAL PROTECTION MUST BE PUT INTO EFFECT PER 49-CFR PART 218:

"WHEN A TRAIN IS ON A MAIN TRACK A BLUE SIGNAL MUST BE DISPLAYED ON EACH END OF THE ROLLING EQUIPMENT AND ON THE CONTROLLING LOCOMOTIVE AT A LOCATION READILY VISIBLE TO THE ENGINEMAN/OPERATOR"

3. IF REQUIRED

a. Perform daily inspection of diesel locomotives on train in compliance with 49-CFR Part 229/231/232/236.

b. Inspect and test locomotive cab signals or automatic train stop on all units, when units will operate in cab signal/ATS territory.

c. Vendors must maintain hours of service log as required by the FRA.

NOTE: SUPERVISORS ARE REQUIRED TO MONITOR INSPECTION PERSONNEL TO ENSURE COMPLIANCE WITH THESE STANDARDS.

1/01/94

BILLING CODE 4910–06–C

Appendix D—Economic Questions for Passenger Equipment Safety Standards

Economic questions which appear in the body of this document are posed to help FRA gain a clear understanding of what costs the industry would incur to meet possible passenger equipment safety standards. To estimate the total costs that the industry would incur as a result of complying with possible passenger equipment safety standards, we need to understand how performance of existing structures, equipment, programs, and procedures compare with what would be required to meet the standards. FRA also needs to gain a better understanding of both the qualitative and quantitative benefits associated with the requirements under consideration.

FRA would appreciate receiving economic information from all concerned parties including individual passenger service operators and equipment manufacturers. Information regarding only one particular sector or operator is useful. Use of this information will result in a more accurate analysis of costs and benefits.

1. Questions on System Safety Plans

Are any system safety plans or similar plans currently in use? How much would it cost (in terms of time and effort) to update existing or develop new system safety plans? On average, approximately how often would system safety plans have to be updated?

How would system safety plans improve safety? Specifically, what areas of safety would be improved, by how much, and why? Please provide copies of any studies, data, or arguments which support your answer.

2. Questions on Pre-Departure or Daily Safety Inspections

In terms of labor, materials, etc., what additional resources would each operator need to perform a pre departure inspection equivalent to Amtrak's? How many pre-departure or daily inspections are performed annually by each operator?

What potential safety benefits would result from performing inspections equivalent to Amtrak's? Please explain/document estimates. For those currently performing inspections, what additional benefits could be realized by modifying those inspection procedures to meet Amtrak's? Please explain/document. What additional costs would result from performing inspections equivalent to Amtrak's, or for those operators currently performing inspections, what additional costs would be incurred by modifying inspection procedures to be equivalent to Amtrak's? Please explain/document.

3. Questions on Periodic Testing and Maintenance

Currently, what equipment is tested and maintained periodically? How often (in terms of miles or time) is this equipment tested and maintained? What do periodic tests and maintenance currently entail—labor, materials, etc.? What benefit(s)/costs would be associated with a periodic testing and maintenance requirement? Please explain.

4. Questions on Personnel Qualifications

Currently, how many employees/contractors are involved in inspecting, testing, and maintaining a passenger car or locomotive? How many of these people are mechanical personnel? Are there established minimum training and qualification requirements for employees and contractors performing inspections, testing, and maintenance? Approximately how many labor hours does each passenger service operator spend each year on these activities?

What are the potential benefits of increased training in periodic testing and maintenance? To what extent are expenditures on such training cost effective? Historically, does this type of training produce identifiable safety benefits? Please explain.

5. Questions on Tourist and Excursion Railroads

Information available to FRA indicates that there are approximately 100 excursion railroads operating about 250 locomotives and 1,000 passenger cars. Is this information correct? What size crews operate excursion and tourist trains? What is the average annual passenger car mileage for tourist and excursion railroads?

What potential safety benefits are available from possible passenger equipment standards for tourist and excursion railroads? To what extent can these safety benefits be realized, and what will they cost? Please explain.

6. Questions on Private Passenger Cars

How many private passenger cars are in operation? On average, how many miles do private passenger cars travel annually?

What potential safety benefits are available from possible passenger equipment standards for private passenger car operators? To what extent can these safety benefits be realized, and what will they cost? Please explain.

7. Questions on Commuter Equipment and Operations

Information available to FRA suggests that there are about 20 commuter railroads nationwide operating roughly 5,400 passenger cars, 400 cab cars, 2,000 multiple unit locomotive pairs, and 400 conventional locomotives. Are these estimates accurate? What size crews operate commuter trains? Approximately how many people stand on each train?

As a result of implementing possible passenger equipment standards, would commuter operators realize different safety benefits and costs than intercity operators? Please explain.

8. Questions on Operations With Cab Car Forward and MUs

What costs and benefits would be associated with alternatives for increasing crew and passenger protection in a head-on collision with a cab car leading?

Data indicate that at least 400 cab cars operate as lead units. Is this estimate accurate? Approximately, how many trips are made each year with cab cars operating as lead units? At what maximum speeds do trains operate cab car forward?

Information available to FRA suggests approximately 2,000 multiple unit locomotive pairs operate as lead units. Is this estimate accurate? Approximately how many trips per year involve multiple unit locomotive pairs?

9. Questions on Operating Practices and Procedures

a. What costs and potential benefits are associated with alternative measures to safeguard passenger movements in ground level stations?

b. At what costs can alternative measures to mitigate risks of high-speed express trains through stations be implemented?

10. Questions on Equipment Design Standards

a. What would be the likely costs associated with different alternatives available for ensuring that anticlimbers are loaded vertically during collisions?

b. What costs would be associated with specifying a more effective anticlimber, stronger and full height collision posts, and full height corner posts on conventional passenger locomotives?

c. How much would it cost to equip conventional passenger service locomotives with the type of strengthened fuel tanks discussed in Appendix B? What levels of safety benefits can be realized from strengthened/ruggedized fuel tanks?

d. How many units have backup power systems currently in place? What would it cost to install a backup power system? What levels of safety benefits would result from backup power systems?

How many coach units have backup emergency lighting? What would it cost to install a backup emergency lighting system? What rationale is used to determine whether a unit will have backup emergency lighting? To what extent would potential safety benefits be realized? Please explain.

What would it cost to install roof hatches on cars?

What options exist for enclosing existing luggage compartments? At what cost? To what extent would potential safety benefits from enclosing luggage compartments be realized? Please explain.

e. What levels of benefits would be realized from modifying 49 CFR Part 223 as suggested? At what cost would these benefits be realized?

11. Questions on Design Standards for High-Speed Equipment

a. What costs would be associated with alternative approaches designed to prevent crushing or penetration of the occupied volume in power and coach cars? Please be specific in defining the alternative approach and its cost elements.

b. How much would installation of alternative buckling delay systems cost in terms of labor hours and materials?

c. What seat configurations do passenger cars operating at speeds greater than 80 mph have? If configurations vary, please explain the differences and why they vary. How many seats does the average passenger car have? If there is no such thing as an average passenger car, how many seats do the different types of passenger cars have? How many cars are there of each different type?

What costs would be involved with installation of lap belts, shoulder harnesses, and other safety restraints on passenger cars? To what extent would safety benefits be realized from installing safety restraints? Please explain.

d. In terms of time, materials, and labor, what would installation of crash refuges (protected areas for the crew when a collision is unavoidable) in locomotives cost?

12. Question Regarding Size of Fleet Affected

Information available to FRA suggests that there are about 8,200 passenger cars and 970 conventional locomotives dedicated to rail passenger service in the United States. Is this information accurate?

13. Questions Regarding Ridership and Ticket Prices

What ridership levels are experienced through the year? Would meeting the new higher standards described in Appendix B result in higher fares? If so, how much higher? Would a decrease in ridership be expected? If so, to what extent? Please explain the method of estimation. To which alternative forms of travel would any lost ridership be expected to switch? How has this conclusion been reached? What assumptions are made? FRA is interested in obtaining copies of studies or other documentation addressing the issue of passenger diversion from rail to other modes of travel as a result of new rail safety standards. What factors have the greatest effect on ridership levels: price, seat availability, trip time, variability in trip time, etc.?

[FR Doc. 96–14944 Filed 6–14–96; 8:45 am]

BILLING CODE 4910–06–P

Federal Register

Monday
June 17, 1996

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Advanced Simulation Plan Revisions; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 28072; Amdt. No. 121–258]

RIN 2120–AF29

Advanced Simulation Plan Revisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule: Updates the terminology used to describe simulators; eliminates the requirement that the minimum of 1 year of employment as an instructor or check airman be with the operator of the simulator; and authorizes the use of Level C simulators for initial and upgrade training and checking for second-in-command (SIC) duties. This action responds to concerns identified by certain affected certificate holders in petitions for exemption. It is intended to alleviate unnecessary training costs while maintaining an equivalent level of safety.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Gary E. Davis, Project Development Branch, AFS–240, Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–3747.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the notice number of this final rule.

Persons interested in being placed on the mailing list for future rules should request from the above office a copy of Advisory Circular No. 11–2A which describes the application procedure.

Background

Appendix H to Title 14 Code of Federal Regulations (CFR) part 121, ''Advanced Simulation Plan,'' provides guidelines and a means for achieving flightcrew training and checking in advanced airplane simulators. The three-phase plan provides standards for a progressive upgrade of airplane simulators so that the total scope of flightcrew training can be enhanced.

Appendix H specifically describes the simulator and visual system requirements that must be met to obtain approval to conduct certain training and checking in the particular type of simulator (Phase I, II, or III).

Appendix H was developed and adopted when there were no ''advanced simulators.'' Currently, however, advanced simulators exist which have permitted virtual duplication of many aircraft performance characteristics and systems. As a result, the vast majority of U.S. airline pilot training is now conducted in these advanced simulators. According to industry members, however, certain limitations originally incorporated into Appendix H still require a small, yet relatively expensive, amount of training to be completed in the actual airplane.

In light of their highly satisfactory experience with these simulators, some industry members believe that Level C simulators should be approved for those flightcrew training and checking maneuvers that currently are permitted only in the aircraft or in Level D simulators. (The differences between Level C and Level D simulators are discussed in more detail below.) In a petition for exemption dated October 12, 1992, the Air Transport Association, on behalf of its affected member airlines and other similarly situated airlines, petitioned for an exemption to provide for initial training in a Level C simulator. Trans World Airlines and Tower Airlines petitioned individually to use a Level C simulator to conduct limited initial and upgrade training and checking functions that would normally be conducted in a Level D simulator. Agreeing in part with the petitioners' supportive information and, based on its own experience, the FAA granted some limited relief for training and checking.

More recently, United Airlines (United) has requested similar but slightly more extensive relief than previously granted. United believes that its experience with advanced simulation, as well as the FAA's own experience, more than adequately justifies expending the scope of flightcrew training and checking in a Level C simulator. In support of its request, United points out that: (1) The same training curricula and pilot proficiency standards would apply to a Level C or Level D simulator; (2) these curricula can be implemented and proficiency demonstrated effectively in a Level C simulator; and (3) daily local FAA oversight of training and checking programs will assure that these curricula and standards remain sufficient.

United further believes that its request would be in the public interest since it is universally acknowledged that simulator training is superior to training in an actual aircraft and the public is served best when high quality training is conducted in the safest and most cost-effective manner.

The FAA agrees with much of United's rationale in its petition; however, after consideration of the supportive information, the FAA believes that United is not alone or unique in its request. Therefore, the FAA has determined that the appropriate response to the United petition for exemption is to change the existing regulations. On February 14, 1995, the FAA published a notice of proposed rulemaking (NPRM) (60 FR 8490) in which it proposed to revise and clarify certain requirements of part 121, appendix H. The FAA received nine comments on its proposal. The commenters included the Air Transport Association (ATA), Simuflite, the Regional Airline Association (RAA), the Airline Pilots Association (ALPA), the Federal Express Corporation (FedEx), United, Atlantic Southeast Airlines, Inc. (ASA), American Airlines (American), and an individual whose affiliation was not revealed. ALPA and the individual were the only commenters who were not generally supportive of the proposal and made several recommendations. Other commenters expressed general support with minor modifications. All comments are discussed below under ''Discussion of the Final Rule.''

Discussion of the Final Rule

Terminology

Simulators historically have been referred to in terms of ''phases'' because it was expected that operators would be upgrading their simulator inventories in phases while exercising simulator privileges commensurate with the phase of the simulator. The upgrading of simulators in phases is now essentially complete and the designation of ''phase'' for identification of simulator complexity is no longer descriptive. Operators no longer begin at a lower level of qualification and upgrade in phases. The tendency is to acquire a given level simulator that best meets their needs. The agency and the industry now commonly refer to simulators in terms of ''levels.'' The FAA received two comments, from Simulflite and United, on this proposal to modify existing appendix H terminology. Both commenters supported the FAA's proposal to replace the term ''phase'' with the term ''level.''

This rule, therefore, revises appendix H, as discussed below, to replace the old terminology with the new throughout the appendix. The new terminology will be used throughout this preamble in discussing other amendments to this rule.

The levels currently used to describe a particular simulator compared with the older phase designations are:

New terminology	Old terminology
Level A	Visual.
Level B	Phase I.
Level C	Phase II.
Level D	Phase III.

Authorizing Additional Training and Checking in a Level C Simulator

All simulators duplicate or simulate the functions of an airplane to varying levels of accuracy. The FAA currently requires that, for each higher level of simulator, the simulator duplicate the performance of the airplane over larger and more critical portions of the airplane's operating envelope. This performance must be shown by documented evidence. Level D simulators must provide the highest level of flight realism. They must perform as the airplane performs over the largest portion of the airplane's operating envelope, while providing the most complete and technically accurate environment possible. Evidence of this performance must include certain sophisticated aerodynamic modeling that allows more complete replication of the performance of the airplane.

Level C simulators are designed to operate over the same portion of the airplane's operating envelope as Level D simulators, and do so under a relatively sophisticated performance verification process. Level C simulators, however, are not required to have sophisticated aerodynamic modeling factors. Nor do they undergo the degree of performance verification that Level D simulators do.

The FAA proposed that Level C simulators may be used for initial qualification and upgrade training and checking for SIC. Because of performance differences between Level C and level D simulators, however, the FAA proposed that pilots qualified using Level C simulators meet certain prerequisite levels of experience. Further, the FAA proposed that these pilots be required to have supervised post-qualification operational experience.

Several commenters discussed the various capabilities of Level C and D simulators. The opinions of the various commenters on this issue are paraphrased as follows:

ATA: There is no evidence to show that a Level D simulator makes any difference in the training and qualification of pilots when compared to the training available in a Level C simulator. There is no difference in flight dynamic performance between Level C and D simulators. Level C can be treated as Level D for all training and checking functions.

FedEx: The only perceptible difference between a Level C and D simulator is that a Level D simulator has a daylight visual system. A Level C simulator is capable of providing the same quality of training as a Level D simulator. The pilot must pass the same flight test standards on all required maneuvers in either Level C or Level D simulators. A 1984 study concluded that a simulator, less sophisticated than a Level C simulator, will support a large majority of the events needed for ATP certification. Moreover, this study also concluded that for an ATP or type rating for students with a commercial rating (1,500 hours of flight) no requirement exists for a daylight visual system.

United: The continued efforts to justify uses for a Level D simulator are simply not supported by airline training experience. Level C simulators are completely adequate for all training and checking. Level D simulators cost more to buy and maintain. The aerodynamic models and performance of Level C and D simulators are identical. The real differences between Level C and Level D simulators are the availability of daylight visual scenes, some special effects, and objective tuning of sound and motion cues.

ASA: A Level C simulator should be allowed for full training and checking for initial SIC. The FAA also should allow partial credit for Level B under appendix H. The only significant difference is the visual system, which, except for circle-to-land maneuvers is not a factor. Level 5, 6, and 7 Flight Training Devices should be allowed credit under appendix H. This would allow a combination of flight training devices and Level B or C training.

American: A Level D simulator has an extremely limited training value advantage over a Level C simulator. With the recent technological advances in visual systems, a Level C simulator could be more valuable from a training perspective than some Level D simulators. The Level C simulator with the wide visual system is superior to the Level D simulator with the conventional monitor optics display in meeting training objectives.

ALPA: If a Level C simulator can be substituted for a Level D simulator, then how is training enhanced and safety maintained? Level D simulators provide airframe icing effects and realistic airport lighting. They also provide airframe buffet and visual scenes such as landing illusions, overwater approaches, and rising terrain on the approach path.

Individual: Simulators are not all that they should be—visual cues, inflight dynamics, landing maneuvers, and total environment experiences have yet to be fully developed with current simulator technology.

FAA response: The discussion of the differences between Level C and Level D simulator programs includes consideration for the performance standards of each and how each level of qualification may be applied to training and checking. Application of a specific qualification level depends in turn on student experience levels and the overall curriculum. The FAA still believes, as industry did when appendix H was implemented, that lower experience levels require more accurate flight dynamic simulation and training in a wide variety of special effects such as weather and runway contaminants. The Level D simulator performance standards exceed Level C in special effects to include daylight visual scenes and more accurate testing for flight dynamics, motion, and sound. It has always been FAA's intent that the special effects required of each qualification level be used in the curriculum for initial and upgrade pilot qualification.

The FAA understands ALPA's concern that the special effects (to include daylight visual scenes) required of Level D simulators currently are not being exercised in contemporary training programs as originally intended. These effects are one of the key elements required for the different experience levels acceptable for use in Levels C and D.

One commenter, ASA, suggested that appendix H should ''allow partial credit for Level B,'' and that ''Levels 5, 6, and 7 Flight Training Devices should be credited under appendix H.'' The FAA believes that items 1. and 2. of the ''Advanced Simulation Training Program'' provide the latitude to integrate Level A, B, C, and D simulators with other simulators and training devices to maximize the total training, checking, and certification functions.

The 1984 FAA study referenced by FedEx assumed that the ATP/Type rating applicant met the experience requirements for an ATP as provided under § 61.155. While this is a higher experience level than that required of an SI for part 121 operations, it speaks directly to the application of the

performance differences between Level C and Level D simulators and the related PIC and SIC qualifications and certification credits. For example, SIC applicants that do not meet § 61.155 experience may qualify in a Level D simulator, while those applicants that do meet this experience may qualify in a Level C simulator.

The FAA believes that further studies are needed to explore the entire issue of ''out-of-the-window'' visual cue requirements relative to the current and projected state of the art. A research requirement for this study has been established. Industry participation is planned and judged essential to the success of this research.

The FAA agrees with the commenters who have indicated that the aerodynamic performance of Level D has been generally accepted as the industry standard for all advanced simulators including Level C. Therefore, the FAA accepts that the aerodynamic performance of some (late model) Level C simulators may be identical to Level D simulators. Level C simulators that meet Level D aerodynamic performance standards provide training benefits in some areas equal to Level D simulators. However, the use of Level D aerodynamics is not required of Level C, and Level C simulators are not tested and qualified to Level D aerodynamic standards.

Given 13 years of experience using Level C simulators, and the rigorous qualification process and performance standards required for Level C simulators, the FAA adopts its proposal to allow Level C simulators to be used for initial qualification and upgrade training and checking for SIC.

Prior Aeronautical Experience

The FAA proposed to add a new paragraph 4 to the proposed section entitled ''Level C, Training and Checking Permitted.'' Under this proposal, the FAA would permit SIC applicants to obtain initial and upgrade training and certification checks in Level C simulators if certain preconditions are met. This new paragraph, as proposed, would require that the applicant meet the prior aeronautical experience requirements for an ATP certificate and airplane rating under § 61.155, before beginning training in a Level C simulator and before being checked under § 61.157 in a Level C simulator for an ATP certificate or rating.

Simuflite expressed uncertainty regarding the lack of any requirement for recency of experience and no restrictions on prerequisite experience for SIC applicants who meet the aeronautical experience requirements of § 61.155 in ''the'' airplane. According to Simuflite, the proposal should have stipulated that the applicants possess the experience requirements of § 61.155 in ''an'' airplane of equivalent class. As for the proposed revisions to the operating experience provisions, Simuflite agreed that operating experience should be acquired performing the duties of the respective crew position under the supervision of a check pilot and regardless of whether the training was done in a Level C or D simulator. However, according to Simuflite, the provision to make operating experience requirements more stringent for the SIC who received training in a Level C infers that there is some belief that the training may be insufficient and inferior.

In regard to § 121.434(f), RAA recommended that the FAA eliminate from the final rule the proposed restriction which would not permit SIC pilots trained in a Level C simulator to reduce the hours of initial operating experience by up to 50 percent by the substitution of one additional takeoff and landing for each hour of flight.

FedEx stated that it could only agree that SIC's should have to meet the flight experience requirements of § 61.155, if qualifying in a Level C simulator, if an ATP certificate is involved. If the FAA is going to require SIC's to meet the requirements of § 61.155, then it should require all pilots qualifying as SIC's to meet those requirements, regardless of the method used to qualify the individual. According to FedEx, there probably are not many part 121 SIC's who do not meet the requirements of § 61.155. Further, FedEx did not agree that § 121.434(c)(2) should be tied to all pilots trained in a Level C simulator. For FedEx, if an SIC needs supervised operating experience, then it should be made applicable to all SIC's, regardless of how they were qualified.

United supported a requirement for SIC operating experience to be gained in the SIC duty position, supervised by a check pilot. However, United did not support the proposed requirement that the operating experience consist of at least four takeoffs and four landings as the sole manipulator of the controls. According to United, experience with ''pilot not flying'' duties is as important as ''pilot flying'' duties. In this regard, United concurred with ATA's opinion on rewording § 121.434(c)(2)(ii)(B). United further noted that the question of whether or not to amend § 121.434(f) in this proposal (Notice 95–2) differed from FAA's earlier proposal to amend that same section in Notice 93–1.

American commented that, since some training in the flight training segment may actually begin in either a flight training device or Levels A or B simulators to accomplish events permitted under part 121, appendix E, the third sentence of the preamble discussion under the heading ''Prior Aeronautical Experience'' should have been worded as follows: ''The rule would require * * * under § 61.155, before beginning the flight training segment of a training program that uses a Level C simulator to accomplish the inflight training items under part 121, appendix E and the part 61, appendix A check for the ATP certificate or rating under § 61.157.'' Like United, American concurred with ATA's suggested rewording of § 121.434(c)(2)(ii)(B).

FAA Response: Regarding amendments to § 121.434, the FAA agrees with the commenters and has determined that these proposed amendments need not be retained. The FAA, in its deliberations and review of comments, agrees with United which pointed out that the questions on whether or not to amend § 121.434(f) was contradictory to an earlier FAA proposal. Some commenters also stated that the proposal to require four takeoffs and four landings for the SIC as sole manipulator of the controls was excessive and did not address pilot-not-flying duties. The FAA has decided that the changes made to § 121.434 in the final rule entitled ''Pilot Operating and Experience Requirements'' (60 FR 20858, April 27, 1995) satisfies these issues raised by commenters and adequately addresses the safety concerns of the FAA. Therefore, the FAA will not propose additional amendment to § 121.434.

Regarding the proposed change to require an SIC to meet the flight experience requirements of § 61.155, the FAA has determined that Level D simulators, used in an approved appendix H training program that may use the prescribed special effects for the 250-hour commercial, instrument-rated pilot, constitute the minimum acceptable level for initial and upgrade SIC qualification in part 121 today. Using a Level C simulator for training the 1500-hour ATP applicant is equal to or better than using a Level D similator for training the 250-hour commercial, instrument-rated pilot. The FAA believes that experience requirements are a vital part of qualification, as well as any required certification within qualification. Therefore, it is appropriate to require § 61.155 experience for SIC qualification and training and paragraph 4 under proposed ''Level C, Training and

Checking Permitted'' is adopted as proposed.

Modifying Employment Requirement

This final rule will remove the requirement in appendix H (in paragraph 3 of the section entitled ''Advanced Simulation Training Program'') that each instructor and check airman have been employed for at least 1 year by the certificate holder applying for approval of the program. The FAA's intention, in originally requiring a minimum period of 1-year of employment with the operator, was to ensure suitable experience levels for individuals selected to be instructors and check airmen. The most sophisticated simulator can be of little value without an experienced, well-trained instructor or check airman to operate it. However, the agency has concluded that this goal can be achieved by 1 year of experience serving as an instructor or check airman with any part 121 operator. The FAA believes that this amount of instructor experience, in addition to the training prerequisites for these individuals in appendix H, is an adequate level of preparation for an instructor or check airman in a Level C simulator. Modifying the employment requirement in this way will not decrease safety. However, it should be noted that, instructors and check airmen may participate in more than one operator's approved training program; each operator must provide training for each instructor and check airman in its training program. Thus, an instructor or check airman who instructs for more than one operator must receive training in each operator's program.

Similarly, the FAA proposed to revise the section entitled ''Phase II, Training and Checking Permitted'' in appendix H to provide that pilots seeking to upgrade to pilot in command (PIC) do not have to have obtained the prerequisite SIC experience ''with the operator,'' nor have served or be serving as SIC ''with that operator.'' Again, the FAA believes that the level of experience required by an approved training program, in addition to the training prerequisites for these individuals in appendix H and elsewhere under the Federal Aviation Regulations, establishes an adequate level of preparation regardless of employment with any specific operator.

Commenters generally supported the FAA's proposal to remove certain employment restrictions. However, ATA suggested deleting paragraph 3 of the Advanced Simulation Plan entirely or, if not possible, modifying paragraph 3 to make clear that anyone who has 1 year of experience—namely with the military, a manufacturer, or a foreign airline—is qualified.

RAA commented that previous experience should not be limited to airplanes of the same group. According to RAA, the FAA should require 1 year as PIC or instructor pilot, to include military time. Further, RAA indicated that pilots should have a type rating and should have completed an air carrier approved training program.

FedEx commented that the proposal should be modified to include flight instructors with experience in airplanes of the same group who gained experience in the military, with airframe manufacturers, and/or with training centers.

United supported the FAA's proposal to delete the requirement for employment ''by the certificate holder'' under existing paragraph 3 of ''Advanced Simulation Training Program'' because this relief has already been offered through exemptions issued to United and to ATA. It also supported the FAA's proposal to delete the words ''with the operator'' for PIC initial or upgrade training, under existing paragraphs 2(a) (ii) and (iii) of ''Phase II Training and Checking Permitted.''

United concurred with other commenters that equivalent military experience should be allowed.

ASA indicated that appendix H should allow established operators to introduce new aircraft with instructors currently employed without waiting 1 year to gain in-type experience.

American echoed the exemption experience mentioned by United and further stated that this experience has proven that training received by a pilot who has already served as SIC on a large jet aircraft provides an equivalent transfer of learning.

ALPA was opposed to the proposal indicating that it only addresses the issue of airplane knowledge and qualification but not familiarity with company policies and operating procedures.

FAA response: the FAA has carefully reviewed commenters' opinions concerning its proposal to amend the 1-year employment requirement for instructors and check airmen in part 121, appendix H and in certain exemptions. The commenters generally concurred that safety considerations should not be based on employment status but rather on prior in-flight experience in the group of airplanes in which the pilot is instructing or checking. By amending the employment provisions of appendix H, the FAA's intent is to honor all experience gained as an instructor or evaluator in group. This would include experience under part 121, part 135, corporate, and military operations.

Further, in response to United's comment, the FAA adopts its proposal to delete the words ''by the certificate holder'' from paragraph 3 of ''Advanced Simulation Training Program'' and to delete the words ''with the operator'' from paragraphs 2(a) (ii) and (iii) of ''Phase II Training and Checking Permitted.''

The FAA understands ALPA's concern that instructors and check airmen should be familiar with ''company policies and operating procedures.'' However, as previously stated, the FAA believes that the student entry level of experience required by an approved training program, in addition to the training prerequisites for these individuals in appendix H, and elsewhere under part 121, establishes an adequate level of preparation.

Clarifying Training and Certification Check Requirements for Initial and Upgrading Training for SIC's Upgrading to PIC

Under the proposed section entitled ''Level C, Training and Checking Permitted,'' the FAA proposed to redesignate paragraph 2(a) as paragraph 2 and paragraph 2(b) as paragraph 3 to clearly distinguish between the prerequisites for initial versus upgrade training and checking. This paragraph restructuring was proposed in order to eliminate the need for the flush paragraph currently at the end of the section.

Current paragraph 2(a) sets forth the prerequisites for training and checking in a Level C simulator for SIC's upgrading to PIC in the same equipment. For example, a pilot serving as SIC in a Boeing 727 upgrading to PIC in the same airplane would have to meet the requirements of this paragraph. Under new paragraph 2, as proposed, these requirements would not change. The pilot would still have to have previously qualified as SIC in the equipment, be currently serving as SIC in an airplane in the same group, and have at least 500 hours of actual flight time as SIC in an airplane in the same group. These requirements are consistent with the definition of upgrade training under Subpart N—Training Program. Section 121.400(c)(3) defines ''upgrade training'' as the training required for crewmembers who have qualified and served as SIC or flight engineer on a particular airplane type, before they serve as PIC or SIC, respectively, on that airplane.

The requirements of current paragraph 2(b) must be read in conjunction with the final paragraph in

the section to determine that it applies to initial training and checking for SIC's upgrading to PIC in an airplane type in which the pilot has never served as SIC. This SIC has experience in the same group of airplanes, but not in the same airplane to which the pilot wants to upgrade. For example, a pilot serving as an SIC in a Boeing 737 initially upgrading to PIC in a Boeing 727 must meet the requirements of this paragraph.

New paragraph 3, as proposed, would not change this requirement, but would make it easier for the reader to see that it applies to initial training and checking. The pilot would still have to be employed by an operator, be currently serving as SIC in an airplane in the same group, have served as SIC on at least two airplanes of the same group, and have a minimum of 2500 flight hours as SIC in airplanes in the same group. Because proposed new paragraph 3 would refer to ''initial'' training, the language in the current last paragraph is no longer needed to explain that pilots meeting these requirements may upgrade to another airplane in that group in which that pilot has not previously qualified. The requirements in new paragraph 3 continue to be consistent with § 121.400(c)(1), which defines ''initial training'' as the training required for crewmembers and dispatchers who have not qualified and served in the same capacity on another airplane of the same group.

The FAA received two comments on its proposed clarifications to initial and upgrade training requirements for SICs under paragraphs (2) and (3) of the section entitled ''Level C, Training and Checking Permitted.'' (Comments received on current flight-hour requirements are discussed below under ''Modifying Current Flight-Hour Requirements.'')

ATA requested that paragraph 2(c) be reworded as follows: ''Is currently serving as second in command in an airplane in the same group as the type airplane to which the pilot is upgrading.'' It further requested that proposed paragraph 3(c), which would require a pilot to have served as SIC on at least two airplanes of the same group, be deleted.

American concurred with ATA's requested modification of paragraph 2(c) and ATA's suggestion to delete proposed paragraph 3(c). American further proposed, however, adding a new paragraph 5 to address PIC's seeking an additional type rating on an ATP within the same group without meeting flying time experience requirements.

FAA Response: The FAA does not agree that removing the requirement in proposed paragraph 3(c) for a PIC initial applicant to have ''served as SIC on at least two airplanes of the same group'' will yield an adequate level of safety. Removing this paragraph would allow an SIC flying hour credits outside of part 121 operations.

American's comment that additional language be added to allow PIC's to seek an additional type rating on an ATP within the same group without meeting flying time experience requirements may have merit. Although it would be beyond the scope of the proposal to add a new paragraph 5, as American proposes, the FAA believes that the new PIC upgrade language as adopted in paragraph 2 responds directly to this concern.

Modifying Current Minimum Flight-Hour Experience Requirements

In crafting its proposal, the FAA contemplated whether to propose revising certain flight-hour experience requirements for initial and upgrade training and checking in a Level C simulator. Currently, pilots upgrading from SIC to PIC in equipment in which they have previously qualified as SIC are required to have at least 500 hours of actual flight time while serving as SIC in an airplane in the same group. Similarly, pilots who are initially upgrading from SIC to PIC in other equipment in which the pilot has not been previously qualified, must have a minimum of 2500 hours as SIC in airplanes of the same group as the equipment to which they are upgrading.

The flight hour experience requirements ensure that a pilot has adequate experience in order to upgrade to PIC. These values were established, based on the collective opinions of the FAA and industry members, when appendix H was originally adopted. Since then, industry members have argued that the required hours are excessive. Based on the success of some industry members who have operated under exemptions that provided certain relief of these flight-hour requirements and other specific requirements for upgrade training under Subpart N, the FAA indicated in the NPRM preamble that it may propose, at some future date, to eliminate the 500 flight-hour requirement and reduce from 2500 to 500 the number of flight hours required for initial upgrade training and checking.

In its preamble, the FAA requested comments and additional information that may justify proposing to modify these current flight hour requirements in a future rulemaking. These comments are discussed below.

ATA proposed that the FAA eliminate the requirement for an SIC to have 500 flight hours in an airplane in the same group and reduce from 2500 to 500 the number of flight hours required for initial upgrade training and checking. ATA recommended that the 500-hour requirement apply to any pilot initially upgrading to PIC regardless of whether the qualification was based on the use of a Level C simulator. If this is not done, the perception will remain, according to ATA, that training and checking in a Level C simulator is inferior to other methods of pilot qualification.

FedEx concurred with ATA.

United commented that there need be no prerequisites for SIC or PIC training or checking in Level C simulators, either initial, upgrade, transition, or recurrent in an airline training program.

American indicated that it is has successfully exercised an ATA exemption provision which allows the upgrading PIC, who is previously qualified in the equipment, to train and check in a Level C simulator. Under this exemption there is no requirement for the SIC to possess 500 hours flying time with the operator as an SIC. Further this exemption allows the initial PIC candidate, not previously qualified in the equipment, to possess only 500 hours flying time with the operator as an SIC instead of 2500 hours in two different airplanes of the same group.

ALPA did not agree with the current regulations that allow a pilot to receive initial training exclusively in a Level D simulator without experience prerequisites. According to ALPA, with the possibility of low-time pilots and ab initio candidates being placed in large aircraft in the near future, training needs to be enhanced, and not reduced in quality.

FAA Response: The FAA appreciates the invited comments on reducing current minimum flight-hour requirements.

Standardizing Language and Eliminating Obsolete References

As discussed above, the term ''phase'' is no longer used to describe the various simulators referred to in Appendix H. Accordingly, the FAA proposed to replace ''phase'' with ''level'' wherever it appears and to use the current alphabetical designations for the various levels.

In addition, the FAA proposed to remove the section entitled ''Phase IIA Interim Simulator Upgrade Plan for part 121 Operators'' as obsolete. For the same reason, it proposed to remove

paragraph 7 of the section entitled ''Advanced Simulation Training Program'' which references Phase IIA. Under Phase IIA, any part 121 operator could conduct Phase II training for 3 and ½ years from the date it was approved for Phase I in a simulator approved for the landing maneuver under Phase I. The carrier's upgrade plan had to be submitted to the FAA before July 30, 1981. Thus, these provisions are no longer effective.

United supported changing the terminology and also deleting all reference to ''Phase IIA.'' According to United, these changes certainly are appropriate and are supported.

The proposed removal of the obsolete sections is adopted as proposed.

Additional Comments

The FAA received some comments that are general in nature and that do not specifically reference the proposed amendments.

For example, United proposed deleting the word ''Plan'' from the title of appendix H since it is no longer, and has not been for many years, a plan.

Simuflite recommended that it would seem reasonable to place simulator and training device requirements in a separate regulatory structure, since it is clear that all segments of the aviation training industry may exercise the permitted simulation training and checking. Simulator standards should stand alone in a rule addressing the use of simulation equipment as appropriate to operations conducted under those rules. The proposed changes should be expanded to clarify that the same training and checking authority in Level C simulators be extended to those part 135 operators who will not be required to comply with subparts N and O of part 121.

ALPA would like to see an additional simulator category, perhaps Level E, which would be a Level D with all aircraft devices such as Traffic Collision Avoidance System, weather radar, Global Positioning Warning System, terrain presentations, and more realistic air traffic control communications. This would add an additional level of reality to pilot training.

FAA response: The FAA appreciates all of above comments and believes that they may have merit. In particular, the FAA agrees that there is room for upgrading simulation standards to include special equipment operations such as weather radar and TCAS (integrated where appropriate), and realistic air-to-ground communications (ATC, Weather, Company, etc.). These comments cannot be incorporated into this final rule, however, because they do not address proposals that have been published for public comment and are therefore outside the scope of the proposal.

In addition, ATA commented that the comment period should have been longer than 30 days to allow for more precise comments and economic analysis.

FAA Response: In allotting the 30-day comment period, the FAA was responding to the large number of requests for relief from the aviation industry. The FAA considered it to be in the best interest of safety and the public to expedite the regulation by every means possible. The FAA did not violate any requirements of the Administrative Procedures Act, which does not require specific comment periods for rulemaking.

Regulatory Analysis

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 FAA has determined that this rule is not a ''significant rulemaking action'', as defined by Executive Order 12866 (Regulatory Planning and Review). The anticipated costs and benefits associated with this rule are summarized below. (A more detailed discussion of costs and benefits is contained in the full regulatory evaluation placed in the docket for this rule.)

Costs

The rule does not impose any additional costs on either part 121 air carrier operators or the flying public. The rule allows certain training practices that the FAA has determined to be safe and efficient methods for training pilots, and it clarifies other portions of appendix H. Thus, the rule does not impose any additional costs because it permits operators to use the least costly methods of training while maintaining an equivalent level of safety for the flying public. Since current training practices could be maintained to current standards under the rule, there is no reduction in aviation safety imposed on the flying public.

Potential Cost-Relief Benefits

The rule generates potential cost savings benefits estimated at $21.6 million, in 1992 dollars, over the next 10 years (or $13.3 million, discounted, using a 7.0 percent rate of interest). These potential cost savings benefits take the form of increased operational efficiency (qualitative) and cost savings (quantitative) to those part 121 operators engaged in initial simulator training, in accordance with appendix H.

The potential cost savings benefits of the rule represent the difference between the costs incurred currently by part 121 air carriers for initial training and checking of SIC pilots and the costs that incurred from the proposal becoming a rule. Currently, certain requirements for initial training and checking of SIC pilots that are not performed in a Level D simulator must be performed in the aircraft. Under the rule, those requirements that are performed in the aircraft in lieu of a Level D simulator can be performed in a Level C simulator. The costs of operating the aircraft for those requirements above the costs of operating the less expensive simulator for those same requirements is the estimated benefit of this rule.

In an effort to derive a cost-relief estimate associated with this rule, several part 121 air carriers were contacted. These air carriers provided the agency with estimated aircraft operating costs per hour, the time needed to train and check pilots for those requirements that, under the present rule, cannot be performed in a Level C simulator, and the number of pilots that it expects to train in the next 10 years.

Potential Operational Efficiency Benefits

The potential benefits of the rule would be generated in the form of increased operational efficiency. In the full regulatory evaluation placed in the docket, these potential efficiency benefits are presented qualitatively. These benefits are difficult to estimate quantitatively due, at present, to the lack of available cost information.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires government agencies to determine whether rules will have ''a significant economic impact on a substantial number of small entities'' and, in cases where they will, conduct a Regulatory Flexibility Analysis.

According to FAA Order 2100.14A (Regulatory Flexibility and Guidance), a substantial number of small entities is

defined as a number which is not less than eleven and which is more than one-third of the small entities subject to a proposed or existing rule. A significant economic impact on a small entity is an annualized net compliance cost which, when adjusted for inflation, equals or exceeds the significant cost threshold for the entity type under review.

The entities that potentially would be affected by the rule are small part 121 operators that own, but do not necessarily operate, nine or fewer aircraft. As discussed in the cost section of this evaluation summary, the rule would not impose any costs on these operators because it is cost-relieving in nature. Therefore, the rule would not impose a significant economic impact on a substantial number of small aircraft operators.

International Trade Impact Assessment

The rule would have little, if any, impact on the competitive posture of either U.S. carriers doing business in foreign countries or foreign carriers doing business in the United States. This assessment is based on the fact that the rule would not impose any cost on part 121 operators because it is cost-relieving in nature. These operators do not compete directly with air carriers engaged in foreign operations (part 129).

Federalism Implications

The regulations contained 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 12866, it is determined that this rule would not have federalism implications requiring the preparation of a Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. The FAA is not aware of, and did not receive any comments indicating any differences that this rule will present.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)).

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, it is certified that this rule 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. This rule is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Federal Aviation Administration.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 121 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

2. Appendix H is amended by replacing the words ''Phase I'', ''Phase II'', and ''Phase III'' with the words ''Level B'', ''Level C'', and ''Level D'' respectively, wherever they appear; by replacing the words ''Phase I, II, and III'' with the words ''Level B, C, and D,'' wherever they appear; by replacing the words ''Phase II or III'' with the words ''Level C or D'', wherever they appear; by replacing the words ''Phase I, II, or III'' with the words ''Level B, C, or D''.

3. The section entitled ''Advanced Simulation Training Program'' in Appendix H is amended by removing paragraph 7 and revising paragraph 3 to read as follows:

Appendix H to Part 121—Advanced Simulation Plan

* * * * *

Advanced Simulation Training Program

* * * * *

3. Documentation that each instructor and check airman has served for at least 1 year in that capacity in a certificate holder's approved program or has served for at least 1 year as a pilot in command or second in command in an airplane of the group in which that pilot is instructing or checking.

* * * * *

4. Appendix H, ''Phase II, Training and Checking Permitted'' is amended by revising the title and paragraph 2 and by adding paragraphs 3 and 4 as follows:

Level C

Training and Checking Permitted

1. * * *

2. Upgrade to pilot-in-command training and the certification check when the pilot—

a. Has previously qualified as second in command in the equipment to which the pilot is upgrading;

b. Has at least 500 hours of actual flight time while serving as second in command in an airplane of the same group; and

c. Is currently serving as second in command in an airplane in this same group.

3. Initial pilot-in-command training and the certification check when the pilot—

a. Is currently serving as second in command in an airplane of the same group;

b. Has a minimum of 2,500 flight hours as second in command in an airplane of the same group; and

c. Has served as second in command on at least two airplanes of the same group.

4. For all second-in-command pilot applicants who meet the aeronautical experience requirements of § 61.155 of this chapter in the airplane, the initial and upgrade training and checking required by this part, and the certification check requirements of § 61.157 of this chapter.

5. Appendix H, ''Phase IIA, *Interim Simulator Upgrade Plan for Part 121 Operators*'' is removed in its entirety.

Issued in Washington, DC., on May 30, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–14082 Filed 6–14–96; 8:45 am]

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June 17, 1996

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121 and 135

Check Airmen and Flight Instructors, Training and Qualification Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 28471; Amendment No. 121–257, 135–64]

RIN 2120–AF08

Training and Qualification Requirements for Check Airmen and Flight Instructors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; opportunity for comment.

SUMMARY: Some experienced pilots who would otherwise qualify as flight instructors or check airmen but who are not medically eligible to hold the requisite medical certificates, cannot perform flight instructor or check airmen functions even in simulators. This rule establishes separate requirements for check airmen who check only in flight simulators and flight instructors who instruct only in flight simulators. To ensure an equivalent level of safety, the affected check airmen and flight instructors must accomplish the following: Recency of experience requirements; completion of an approved line observation program within each 12-month period; and required training, including recurrent ground and flight training. Additionally, this rule allows check airman and flight instructors to obtain all of their flight training in simulators, as opposed to the current scheme in which initial and transition flight training must include an in-flight element.

EFFECTIVE DATE: This final rule is effective June 17, 1996. See below in the ''Modifications'' section for the justification for making this rule effective on June 17, 1996 and for a discussion about 9-month compliance dates for two new requirements. Affected parties do not have to comply with the information collection requirements in §§ 121.411(d), 121.412(d), 135.337 (d), and 135.338(d) until the Federal Aviation Administration publishes in the Federal Register the control number assigned by the Office of Management and Budget (OBM) to these information collection requirements. Publication of the control number notifies the public that OMB has approved these information requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Tom Toula, Air Carrier Training Branch, (AFS–210), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20519, Telephone (202) 267–3718.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the notice number of this final rule.

Persons interested in being placed on the mailing list for future rules should request from the above office a copy of Advisory Circular No. 11–2A which describes the application procedure.

Background

The requirements for training, checking, and qualification of check airmen and flight instructors who perform training and checking for certificate holders operating under Title 14 of the Code of Federal Regulations parts 121 and 135 appear in §§ 121.411 and 135.337 (check airman and flight instructor qualification) and §§ 121.413 and 135.339 (check airman and flight instructor training and checking).

When parts 121 and 135 were implemented, the primary means of training was in an aircraft. Therefore there was a requirement for check airmen and flight instructors to hold appropriate medical certificates. Even after flight simulators came into use in the late 1970s, check airmen and flight instructors were likely to use both aircraft and flight simulators. Despite significant changes in methods of training, particularly an increased use of flight simulation in training, the sections of parts 121 and 135 mentioned above have not been significantly revised in over 20 years. These sections still focus primarily on check airmen and flight instructors who perform their functions in airplanes.

Today, flight simulators and flight training devices are so sophisticated that they are used to conduct most training and checking with significant benefits to safety. Training and checking in simulators and flight training devices have distinct advantages over training and checking in flight. Flight simulators provide a safe flight training environment, more comprehensive training, and may reduce the number of training and in-service accidents by allowing training for emergency situations that cannot be safely conducted in flight. The use of flight simulators and flight training devices in lieu of aircraft has resulted in a reduction in air traffic congestion, energy use, noise, air pollution and training costs.

Some experienced pilots who would otherwise qualify as flight instructors or check airmen but who are not medically eligible to hold the requisite medical certificates, cannot perform check airmen functions or many flight instructor functions even in simulators. Thus the regulations do not establish separate categories of requirements for check airmen who check only in flight simulators or for flight instructors who instruct only in flight simulators. A number of highly experienced airmen who might serve as flight instructors or check airmen, including former military pilots, former air carrier pilots, and furloughed pilots, as well as other experienced pilots, currently are unable to perform those training and checking functions because they are unable to hold an airman medical certificate.

This rule allows experienced check airmen and flight instructors who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices. Under this rule, affected check airmen and flight instructors must meet similar requirements that a pilot flying the line is required to meet, such as initial training, proficiency checks, and competency checks and could use flight simulators to meet these similar requirements. This rule also addresses check airmen in aircraft, check airmen in flight simulators or flight training devices, flight instructors in aircraft, and flight instructors in flight simulators or flight training devices.

The Air Carrier Training Working Group of the Aviation Rulemaking Advisory Committee (ARAC) recommended that the FAA amend its regulations so that airmen who were not eligible to hold medical certificates would nonetheless be eligible to instruct or check pilots and other airmen in simulators. On July 16, 1992, ARAC forwarded draft rule language for the FAA to review. The FAA used ARAC's draft as the basis for developing this rule.

Discussion of the Rule

This rule revises the following sections of parts 121 and 135: §§ 121.411, 121.413, 135.337, and 135.339; it adds the following four new sections: §§ 121.412, 121.414, 135.338, and 135.340.

The most significant changes between the current and new rules are as follows:

(1) The categories of check airman (simulator) and flight instructor

(simulator) are defined with separate requirements for each.

(2) The following requirements for flights instructors and check airmen who only perform check airmen and instructor functions in flight simulators and flight training devices are deleted:

- The requirement to hold at least a Class III medical certificate, in current § 121.411(a)(6).
- The requirement to hold a Class I, II, or III medical certificate, in current § 135.337(a).

(3) A flight instructor (simulator) or check airman (simulator) is required to meet recency of experience requirements, in the 12-month period preceding the performance of flight instruction or check airman functions, by flying two flight segments as a required crewmember for the type aircraft involved, if medically qualified and certificated, or by completing an approved line-observation program.

(4) Training requirements for check airmen and flight instructors who serve in training programs under parts 121 and 135 are in §§ 121.413, 121.414, 135.339, and 135.340. This rule changes these requirements in the following ways:

- A new requirement is imposed for check airmen and flight instructors in that they must satisfactorily complete, within the preceding 24 calendar months, an observation check of their check airman or flight instructor functions. This check may be accomplished in a flight simulator or in a flight training device as appropriate.
- Flight instructors are required to have much of the same ground training requirements as check airmen. As a practical matter, ground training for flight instructors and check airmen are the same; however, the current rules are not specific in this area. This change ensures that flight instructors and check airmen receive the same ground training.
- Currently, initial and transitional flight training for check airmen and flight instructors who perform their functions in-flight requires in-flight training and practice. This rule allows this training to take place in simulators or in flight training devices.

These changes allow certain experienced pilots who are unable to meet current medical certificate requirements to be able to check and instruct, but only in flight simulator and flight training devices. To allow this flexibility while maintaining safety, this rule requires flight instructors (simulator) and check airmen (simulator) to meet recency of experience requirements, take observation checks of their check airmen/instructor abilities once every 2 years, complete the required recurrent training necessary to serve as a pilot-in-command under parts 121 and 135 or a flight engineer or flight navigator under part 121, and complete required proficiency or competency checks. A detailed section-by-section description of the rule follows.

Section-by-Section Analysis

Section 121.411 Qualifications: Check airmen (airplane) and check airmen (simulator).

Current § 121.411(a)(1) requires that a flight instructor or check airman who serves in a training program under part 121, for the particular airplane type involved, hold the airman certificates and ratings that must be held in order to serve as a pilot in command (PIC), a flight engineer, or a flight navigator, as appropriate, in operations under part 121. Current § 121.411 (a)(6) requires that a check airman or flight instructor who serves in a training program under part 121 must hold at least a Class III medical certificate. Under current § 121.411(b)(1) a simulator instructor, instructing for a course of training in an airplace simulator as provided in § 121.409(b), must hold an airline transport pilot (ATP) certificate but need not hold an airman medical certificate if only giving proficiency checks as specified in § 121.441 and § 121.409(b). Under the current rules, if a simulator instructor is providing instruction for anything other than a proficiency check (e.g., upgrade training), then he or she must have a medical certificate. (See current § 121.411(a).)

Section 121.411 is revised to change the applicability from check airmen and flight instructors to check airmen (airplane) and check airmen (simulator). Flight instructors are covered under new § 121.412. New paragraph (a) of § 121.411 states that a check airman (airplane) is a person who is qualified and permitted to conduct flight checks and instruction in an airplane, in a flight simulator, or in a flight training device for a particular type airplane. A check airman (simulator) is a person who is qualified to conduct flight checks only in a flight simulator or in a flight training device for a particular type aircraft.

New paragraph (b) contains the eligibility requirements to serve as a check airman (airplane). With some editorial revisions and an additional requirement to satisfy the recency of experience requirement of § 121.439, the eligibility requirements remain the same as the current requirements. The recency provision is added to ensure equivalent recency of experience for those check airmen who may not be flying line operations.

New paragraph (c) of § 121.411 establishes the eligibility requirements for check airmen (simulator). These requirements are the same as those for check airmen (airplane) in paragraph (b) with two exceptions. There is no requirement to hold a Class III medical certificate and the recency of experience requirements of § 121.411(b)(6) are not required of part 121 check airmen (simulator). Check airmen (simulator) instead are allowed to meet proposed recency of experience requirements in new paragraph (f), discussed later in this section. Because check airmen (airplane) are able to perform their functions in an airplane as a required flightcrew member, they may meet recency of experience requirements either in an airplane or in a qualified simulator. In addition, current § 121.411(c), which grants training relief to check airmen, flight instructors, and simulator instructors who were designated before December 22, 1969, is deleted since the FAA believes that this provision is obsolete.

New paragraph (d) is added to clarify that the completion of the requirements of (b)(2),(3), and (4) or (c)(2),(3), and (4), whichever is applicable, must be entered into the operator's records for each individual check airman.

New paragraph (e) is added to restate the portion of current § 121.411(a)(6) allowing airmen who have passed their 60th birthday or who do not hold a medical certificate to perform check airmen functions, but, under this paragraph, these airmen may not serve as crewmembers under part 121 operations.

New paragraph (f) is added to offer an alternate method for maintaining recency of experience requirements for check airmen (simulator). Under this rule, check airmen (simulator) must, within the 12-month period preceding the performance of check airman duties, either fly two segments as a required crewmember for the type airplane or satisfactorily complete an approved line-observation program.

New paragraph (g) is added to provide that the recency of experience requirements of paragraph (f) may be completed in the calendar month before or the calendar month after the month in which it is due.

Section 121.412 Qualifications: Flight instructors (airplane) and flight instructors (simulator).

The requirements for this section are virtually identical to those in § 121.411

for check airmen. Additionally, this section specifies that an individual who does not hold a medical certificate may not function as a flight instructor in an airplane.

Section 121.413 Initial and transition training and checking requirements: Check airmen (airplane) and check airmen (simulator)

Paragraph (a)(1) maintains the current requirement that, in order to serve as a check airman, a person must have completed initial or transition check airman training. Additionally, paragraph (a)(2) requires an observation check of check airman functions within the preceding 24 calendar months. The observation check may be done in part or in full in an airplane, in a flight simulator, or in a flight training device as appropriate. An FAA inspector or an aircrew designated examiner employed by the operator may administer this observation check. The FAA believes that the observation check requirement better ensures that check airmen maintain their qualifications and their abilities to perform all other duties as appropriate for check airmen.

In paragraph (b) the observation check requirement of paragraph (a)(2) could be accomplished in the month before or the month after the month in which it is due.

Paragraph (c) of this section covers initial ground training requirements for check airmen. Most of the requirements are in current paragraphs (a)(1) through (a)(6) of § 121.413; however, some editorial revisions have been made.

Paragraph (d) covers transition ground training for check airmen. This paragraph separates transition ground training requirements from initial ground training requirements, but imposes no new requirements since transition and ground training are currently required in § 121.413 (a)(6).

Paragraph (e) is added to cover initial and transition flight training for pilot check airmen (airplane), flight engineer check airmen (airplane), and flight navigator check airmen (airplane). Paragraph (e) contains requirements equivalent to those contained in current § 121.413(c) and (d), but places greater emphasis on the safety issues required during checking that takes place under actual flight. Additionally, it broadens the scope of current § 121.413(c) to include flight engineers (airplane) and flight navigators (airplane). The FAA believes that the flight engineer (airplane) and flight navigator (airplane) safety functions are as important to the safe conduct of a flight as that of the check airman (airplane).

Paragraph (f) is added to allow all the flight training provisions of paragraph (e) to be accomplished in full or in part in flight, in flight simulators, or flight training devices as appropriate. Because of technological advances in simulation, the FAA believes that the requirements in current § 121.413(c)(1) may be conducted in a simulator. Current paragraph (c) allows the initial and transition flight training in safety measures for emergency situations (current paragraph (c)(2)) and the results of improper or untimely safety measures (current paragraph (c)(3)) to be accomplished in an approved flight simulator, but requires the training requirements of current paragraph (c)(1) to be conducted in flight. In the new rule, the requirements of current paragraph (c)(1) are to be codified in § 121.413(e)(3); however, under new paragraph (f), those requirements need not be accomplished in flight. Those requirements can be accomplished in flight, in a flight simulator, or in a flight training device. The FAA believes that this is appropriate because of the proven effectiveness of flight simulator training. Flight training devices can be used to fulfill the training requirements for the same reasons.

Paragraph (g) is added to establish initial and transition flight training for check airmen (simulator). The requirements include training and practice in the required normal, abnormal, and emergency procedures and training in the operation of flight simulators or flight training devices. Under this paragraph, the training may be conducted in flight training devices or flight simulators as appropriate. The requirements are necessary to establish flight training requirements specifically for check airmen (simulator) who are qualified to conduct flight checks or instruction only in a flight simulator or in a flight training device.

Section 121.414 Initial and transition training and checking requirements: Flight instructors (airplane) and flight instructors (simulator)

The requirements for this section are identical to the provisions in § 121.413 except that the terms and references apply to flight instructors. The required observation check is an observation check of instructor functions, and includes the current requirement for training in teaching methods and procedures except for the holders of a flight instructor certificate.

Section 135.337 Qualifications: Check airmen (aircraft) and check airmen (simulator)

Section 135.337(a)(1) currently requires that a flight instructor or check airman serving in a training program under part 135, for the particular aircraft type involved, must hold the airman certificate and ratings that must be held to serve as a PIC in operations under part 135. Section 135.337(a)(5) currently requires that such a flight instructor or check airman hold a Class I or Class II medical certificate required to serve as a PIC in operations under part 135. Under current § 135.337(a)(7), a check airman who serves in an aircraft simulator only must hold a Class III medical certificate. Section 135.337(b) currently requires that a person who serves as a simulator instructor for a course of training in an aircraft simulator must hold at least a commercial pilot certificate.

This rule changes the applicability of this section from check airmen and flight instructors to check airmen (aircraft) and check airmen (simulator). Flight instructors are covered under new § 135.338. Paragraph (a) of § 135.337 states that a check airman (aircraft) is a person who is qualified and permitted to conduct flight checks and instruction in an airplane, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft. A check airman (simulator) is qualified to conduct flight checks only in a flight simulator or in a flight training device for a particular type, class, or category aircraft.

Paragraph (b) contains the eligibility requirements to serve as a check airman (aircraft). With some editorial revisions and an additional requirement to satisfy the recency of experience requirement of § 135.247, the eligibility requirements remain the same as current requirements. The recency provision is added to ensure equivalent recency of experience for those check airmen who may not be flying line operations.

Paragraph (c) of § 135.337 is added to establish the eligibility requirements for check airmen (simulator). These requirements are the same as those for check airmen (aircraft) paragraph (b) with two exceptions. There is no requirement to hold a medical certificate and the recency of experience requirements of new § 135.337(b)(3) are not required of part 135 check airmen (simulator). Check airmen (simulator) instead are allowed to meet the recency of experience requirements of paragraph (f), discussed later in this section.

Paragraph (d) is added to clarify that the completion of the requirements of

(b)(2), (3), and (4) or (c)(2), (3), (4), whichever is applicable, must be entered into the individual check airmen's training record.

Paragraph (e) is added to clarify that an airmen who does not hold a medical certificate may perform check airmen functions, but may not serve as a crewmember under part 135 operations.

Paragraph (f) is added to offer an alternate method for maintaining recency of experience requirements for check airmen (simulator). Check airmen (simulator) must, within the 12-month period preceding the performance of check airman duties, either fly two segments as a required crewmember for the type, class, or category aircraft or satisfactorily complete an approved line-observation program.

Paragraph (g) is added to provide that the recency of experience requirements of paragraph (f) may be completed in the calendar month before or in the calendar month after the month in which it is due.

Section 135.338 Qualifications: Flight instructors (aircraft) and flight instructors (simulator)

The requirements for this section are virtually identical to those in § 135.337 for check airmen. Additionally, this section clarifies that an individual who does not hold a medical certificate may not function as a flight instructor in an aircraft.

Section 135.339 Initial and transition training and checking requirements: Check airmen (aircraft) and check airmen (simulator)

Paragraph (a)(1) continues the current requirement that, in order to serve as a check airman, a person must have completed initial or transition check airman training. Additionally, paragraph (a)(2) requires an observation check of check airman functions within the preceding 24 calendar months. The observation check may be done in part or in full in an airplane, flight simulator, or flight training device as appropriate. An FAA inspector or an aircrew designated examiner employed by the operator may administer the observation check. The FAA believes that the observation check requirement better ensures that check airmen maintain their qualifications and their abilities to perform all other duties as appropriate for check airmen.

In paragraph (b) the observation check requirement of paragraph (a)(2) may be accomplished in the month before or the month after the month in which it is due.

Paragraph (c) of this section covers initial ground training requirements for check airmen. Most of the requirements are in current paragraphs (a)(1) through (a)(6) of § 135.339. Some editorial revisions are made in this rule.

Paragraph (d) is added to cover transition ground training for check airmen. This paragraph separates transition ground training requirements from initial ground training requirements, but imposes no new requirements since transition and ground training are currently required in § 135.339(a)(6).

Paragraph (e) is added to cover initial and transition flight training for pilot check airmen (aircraft). Paragraph (e) contains requirements equivalent to those contained in current § 135.339(c), but places greater emphasis on the safety issues required during checking that would take place under actual flight.

Paragraph (f) is added to allow all the flight training provisions of paragraph (e) to be accomplished in full or in part in flight, in flight simulators, or in flight training devices as appropriate. This makes the requirements in current § 135.339(c)(1) less burdensome. Current § 135.339(c) allows the initial and transition flight training in safety measures for emergency situations (current paragraph (c)(2)) and the results of improper or untimely safety measures (current paragraph (c)(3)) to be accomplished in an approved flight simulator, but requires the training requirements of (c)(1) to be conducted in flight. In the new rule, the requirements of current (c)(1) are to be codified in § 135.339(e); however, under new paragraph (f), those requirements need not be accomplished in flight. Those requirements can be accomplished in flight, in a flight simulator, or in a flight training device. The FAA believes that this is appropriate because of the proven effectiveness of flight simulator training. Flight training devices also can be used to fulfill the training requirements for the same reasons.

Paragraph (g) is added to establish initial and transition flight training for check airmen (simulator). The requirements include training and practice in the required normal, abnormal, and emergency procedures and training in the operation of flight simulators or flight training devices. Under this paragraph, the training may be conducted in flight training devices or flight simulators as appropriate. The requirements are necessary to establish flight training requirements specifically for check airmen (simulator) who are qualified to conduct flight checks or instruction only in a flight simulator or in a flight training device.

Section 135.340 Initial and transition training and checking requirements: Flight instructors (aircraft) and flight instructors (simulator).

The requirements of this section are identical to the provisions of § 135.339 except that the terms and references apply to flight instructors. The required observation check is an observation check of instructor functions, and paragraph (c)(7) is added to include the current requirement for training in teaching methods and procedures except for the holders of a flight instructor certificate.

Discussion of Comments

On February 22, 1996, the FAA published notice proposing to allow experienced check airmen and flight instructors who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices (61 FR 6903). Eleven commenters responded to the proposal. Commenters from FlightSafety International, the National Air Transportation Association, Executive Air Fleet, Inc., Million Air, and McDonnell Douglas support this final rule. Commenters from Petroleum Helicopters, Inc., (PHI), the Allied Pilots Association (APA), the Air Line Pilots Association (ALPA), the Air Transport Association (ATA), Federal Express (FedEx), and Kitty Hawk AirCargo, Inc., (KHAI) made several recommendations, discussed and responded to below.

PHI

PHI states that it generally supports the proposal to change § 135.339(a)(2) to require an observation check of check airmen functions within the preceding 24 calendar months. However, it requests that a statement be added to the rule language that would further clarify who may conduct this observation check other than an FAA inspector. It suggests that this check should be allowed to be conducted by other ''designated check airmen.''

PHI also generally supports proposed § 135.340 which requires flight instructors to have the same training as check airmen. It suggests adding language to the rule, however, to enable operators to designate limited instructor capability for the purpose of training specific modules, for example, navigation equipment, air data computers, or other specialized equipment or operations.

FAA Response: The FAA agrees, in part, with PHI's comment regarding clarification of who, other than an FAA inspector, may conduct an observation check. To clarify this matter, the FAA

has changed ''aircrew designated examiner'' to ''aircrew designated examiner employed by the operator'' under §§ 121.413(a)(2) and 135.339(a)(2). This clarifies that such examiners are associated with a particular operator. The FAA does not recognize the term ''designated check airmen'' as suggested by the commenter. The FAA does not agree that check airmen should conduct observation checks of other check airmen. The FAA has determined that such authority should be exercised only by FAA inspectors or an FAA designated aircrew examiner employed by the operator.

In reference to PHI's comment regarding proposed § 135.340, this rule was not intended to create limited categories of instructors. To create categories of instructors with limited authority is beyond the scope of the NPRM.

APA

APA's comments are described as follows:

The proposal does not address any experience requirements other than the requirement to hold the appropriate airmen certificates and ratings that are required to serve as PIC for the type aircraft involved. Check airmen under the current regulations are usually operationally experienced line pilots who bring extensive line flying background to the training environment. Under the proposed rule, any individual with the proposed airmen certificates and ratings, with some classroom and simulator training, could be a designated check airman. In today's cost conscious training environment, with extensive use of single visit training cycles, the need to use operationally experienced individuals as check airmen is essential to maintain an effective training environment and operational evaluation standard. Operational experience requirements should include a defined number of PIC hours in the type aircraft and regulatory environment (i.e., part 121 or 135) involved and/or prior qualification as a former military, air carrier, or furloughed pilot.

FAA Response: It is possible that, under this rule, any individual with airmen certificates and ratings, with the appropriate classroom and simulator training, could become a designated check airman. Check airmen (simulator), however, must accomplish the following: Complete the operator's course of instruction (initial, transition, or upgrade, as appropriate) to include the proficiency check using company procedures; regularly participate in an approved line-observation program; maintain recency of experience in the simulator; and accomplish the normal recurring training, line-oriented flight training program, and periodic proficiency checks required of a line-qualified PIC. These requirements are similar to those that line-qualified PIC's must meet. The FAA has determined that certain simulators (Levels C and D) are so advanced that experience gained using these simulators, coupled with the line observation (e.g. § 121.411(f)), recurrency requirements (e.g., § 121.411(c)(2)) and (3)), and observation check (e.g., § 121.413(a)(2)) are adequate substitutes for actual flight experience in order to be check airmen. Further, the airman checked by the check airman (simulator) must accomplish operational experience (e.g., § 121.434 (c)(1)(i) and (ii)) under the supervision of a fully qualified PIC check airman (airplane) occupying a pilot station. Thus, even a check airman (simulator's) approval of an airman is indirectly reviewed by a check airman (airplane) during the acquisition of operating experience.

APA also comments that, while the preamble indicates that the recency of experience requirements for check airmen (simulator) and flight instructor (simulator) can be met by flying two flight segments as a required crewmember for the aircraft type involved, the proposed rule language of §§ 121.411(f) and 135.337(f) states that the recency of experience flying requirements of two flight segments can be accomplished in a simulator. APA believes that recency of experience requirements can be met only by operational line flying. The requirements for these flights should include participation/observation in all aspects of the flight, including flight planning, preflight, and post flight functions. ALPA echoed APA's comment regarding § 121.411(f) and FedEx commented that, if proposed §§ 121.411(f) and 121.412(f) are adopted, then similar requirements in appendix H should be deleted.

FAA Response: The FAA has revised the preamble and also proposed §§ 121.411(f), 121.412(f), 135.337(f), and 135.338(f) to clarify that recency of experience requirements can be met either in an airplane or in a simulator (that is, by accomplishing two flight segments or an approved line-observation program). The FAA also has revised all of these sections to clarify the time period in which these flight segments or line-observation programs must be accomplished. For the reasons stated in the FAA's response to APA's comment above, all experience requirements, both initial and recurrent, can be met in an appropriately qualified simulator.

APA also proposes that the new requirement for check airmen and flight instructors to complete an observation check of their performance functions within the preceding 24 months should be increased in frequency to within the preceding 12 months. Flightcrew members are being evaluated at a minimum of at least every 12 months. ALPA echoes APA on this matter. In line with the ''one level of safety'' concept, according to APA, the rule ultimately adopted should be identical for both part 121 and part 135 operators.

FAA Response: The evaluation timeframe for check airmen and flight instructors will not be less than that required for the individuals they will check or instruct. Check airmen and flight instructors continue to be required to complete appropriate proficiency and competency checks at least once every 12 months. The new requirement that check airmen and flight instructors be observed in the performance of their functions will serve to increase the quality assurance of check airmen and flight instructors.

ALPA

As discussed above, ALPA agrees with APA that the observation checks proposed under §§ 121.413(a)(2) and 121.414(a)(2) should be conducted within 12, rather than 24, months. ALPA and APA further agree that 121.411(f), as proposed, would require the accomplishment of flying or line observation in a flight simulator. The FAA has responded to these comments above under the discussion of APA's comments.

In addition, ALPA feels that line observation should be required in the airplane on a more frequent basis than proposed. According to ALPA, the requirement in §§ 121.411(f) and 121.412(f) for 12 months should be changed to 3 months. Lastly, ALPA indicates that its comments regarding the proposed part 121 sections are also valid for the proposed part 135 sections.

FAA Response: The FAA agrees that any individual will maintain greater line familiarity with more frequent line observations. Current guidance indicates that two line observations per year are adequate to maintain line familiarity. There is no evidence that safety has been compromised using this current guidance. The FAA believes that annual proficiency or competency checks, and the new 24-month observation requirement coupled with the new annual line observation requirement, exceed the current

guidance of two line observations per year.

The FAA acknowledges that ALPA's comments regarding pertinent part 121 sections are intended to apply to parallel part 135 sections and has responded appropriately. As discussed above under APA's comments, the FAA has revised proposed §§ 121.411(f) and 121.412(f) to parallel proposed § 135.337(f).

ATA

ATA suggests that the preamble language of proposed § 121.411(b)(6) be made more clear. As drafted, it is unclear to ATA whether the FAA intends that the check airmen must complete the three takeoffs and landings in an airplane or whether a simulator may be used to satisfy this requirement as allowed under existing § 121.439.

FAA Response: Because check airmen (airplane) are able to perform their functions in an airplane as a required flightcrew member, they may meet recency of experience requirements either in an airplane or in a qualified simulator. However, if a check airman (airplane) is a required flightcrew member, actual in-flight recency experience is required pursuant to § 121.439(c).

ATA also believes that proposed § 121.412(c)(1) contains a significant change because it requires simulator-only instructors to hold an ATP with a type rating in the airplane in which they will instruct. This change is not explained in the preamble. In a second set of comments which were filed after the comment period closed, ATA stated that many of its member airlines employ hundreds of ''simulator only'' instructors who do not hold type ratings on the airplane on which they instruct. ATA feels that the impact of this rule would be ''severe'' on its members. Therefore, ATA recommends the following:

—Allow current ''simulator only'' instructors to continue instructing without a type rating but require a type rating when an instructor is trained on another airplane type;
—Allow sufficient time (i.e., 3 years) for an operator's instructor to obtain a type rating and make it clear that a medical certificate is not required to take a flight test in a simulator; or
—Allow a ''simulator only'' instructor to be issued a type rating upon successful completion of the next recurrent training so that additional training would not have to be provided in preparation for a type rating flight test.

FAA Response: Current § 121.411(b) references simulator instructors. Simulator instructors were individuals who could instruct flightcrew members maintaining airplane qualification but who were unable to instruct those flightcrew members training under an initial, upgrade, or transition training program. These simulator instructors were required to hold an ATP but not a type rating in the type airplane in which they instructed so long as they were only giving proficiency instruction. ATA states that simulator instructors holding an ATP but not a type rating for the airplane in which they instructed could not obtain the required type rating in a level C simulator.

Under this final rule, simulator instructors are included under the category of flight instructors (simulator). Flight instructors (simulator) are required to obtain a type rating for the airplane in which they instruct. Any individual may use an approved simulator to satisfy the practical test requirements for an ATP and associated type rating in accordance with current § 61.157(e). Those individuals who hold an ATP but not the type rating in the airplane in which they provide proficiency instruction will have 9 months to come into compliance with the new requirement by obtaining the aircraft type rating. (See new 121.412(c)(1)). The new part 121 rule recodifies the existing part 121 requirement that if a simulator instructor is providing initial training, upgrade training, or transitional training, then he or she must have a type rating for the aircraft. Because this is a recodification of the part 121 existing requirement, ongoing compliance is required. In other words, any part 121 flight instructor (simulator) who provides initial, upgrade, or transitional training must continue to have the appropriate type rating for the aircraft involved. In contrast, current § 135.337(b) does not require that a simulator instructor have the appropriate type ratings. Therefore new § 135.338(c)(1) allows flight instructors (simulator) 9 months to come into compliance with the new type rating requirements.

Despite ATA's assertion, in its untimely comment, that it would take two of its members several years to type rate all of their ''simulator only'' instructors, ATA did not provide any data to support its claim (e.g., number of persons affected, availability of simulators, etc.) Furthermore, ATA states in its April 19 comment that these instructors have completed aircraft qualification courses and recurrent training. Thus, the time required for these individuals to obtain type ratings will be minimal.

FedEx and ATA

FedEx and ATA recommend deleting current § 121.411(a)(6) and proposed §§ 121.411(b)(5), 121.412(b)(5), 121.411(e) and 121.412(e). According to these commenters, existing part 61 and § 121.383 adequately address medical certificate and age requirements and the FAA should merely reference these existing requirements in the preamble of this final rule. Regarding §§ 121.411(e) and 121.412(e), the KHAI commenter agrees with ATA and FedEx that these sections should be deleted due to redundancy with existing § 121.383. ATA and FedEx further request that the FAA make it clear that the requirement for a Class III medical certificate in § 61.39 does not apply if the applicant for a type rating uses a flight simulator.

FAA response: The FAA concurs with ATA that proposed §§ 121.411(b)(5), 121.412(b)(5), 121.411(e) and 121.412(e) may echo provisions contained elsewhere in the regulations; however, the intent of these proposed sections is to clarify medical requirements for the airplane and simulator categories of check airmen and flight instructors.

The provisions of § 61.39, which cover flight tests, do not apply to this rulemaking. The medical requirement provision of § 61.39(a)(3) was adopted to ensure that applicants who would take their flight tests in an aircraft hold appropriate medical certificates. There is no requirement for applicants to hold a medical certificate for practical tests conducted in a simulator. Section 61.157 provides for adding type ratings to existing ATP's. The addition of a type rating is accomplished under § 61.157 by a practical test for which no medical certificate is required.

KHAI

KHAI's comments are described as follows:

The recordkeeping requirements of proposed § 121.411(c) and (d), requiring that records for a check airman be maintained as for any other pilot, are redundant and not necessary unless the check airman is not employed as a pilot for the certificate holder.

FAA Response: The FAA agrees with the commenter to the extent that check airmen and flight instructors who are line qualified flightcrew members for the operator need not duplicate the recordkeeping requirements of § 121.411. This final rule recognizes check airmen and instructors who may not be line qualified and requires such individuals to maintain similar training

records as those individuals who are line qualified.

Further, according to KHAI, the observation check requirement in proposed § 121.413(a)(2) is burdensome. Since it is now very difficult to schedule an FAA inspector to conduct checks, KHAI believes that this proposed observation check requirement will add an unnecessary burden of additional tracking and scheduling and accomplishes little in the way of verifying the competency of a check airmen.

FAA Response: The FAA places importance on the role of check airmen and flight instructors. The 24-month observation is a new requirement and will serve to increase the quality assurance of check airmen and flight instructors. This final rule permits qualified aircrew designated examiners employed by the operator to conduct the observation. The addition of aircrew designated examiners employed by the operator to conduct the observation check should relieve any unnecessary burden for tracking and scheduling.

The commenter from KHAI states that there is an apparent discrepancy in the initial and transition training requirements for flight instructors as proposed in § 121.414 (c)(7) and for check airmen as proposed in § 121.413 (c)(6).

FAA Response: Generally, before an individual becomes a check airman, those individuals are first qualified as flight instructors. The training requirements for flight instructors are prerequisite to the training requirements for check airmen.

KHAI comments that, unlike the new § 121.434 regulation, this regulation does not specifically address line check airmen.

FAA Response: This final rule addresses check airmen as a broad category. Other specific categories of check airmen (i.e., line check airmen, proficiency check airmen, etc.) also were not mentioned. It was not the intent of this rule to address specific categories of check airmen beyond check airmen (airplane) and check airmen (simulator).

Lastly, KHAI states that, in the future, more input is needed from part 121 operators before this type of rule is issued, that comment periods should be longer, and that a review of FAA Order 8400.10 should be conducted.

FAA Response: As indicated in the preamble discussion above, the FAA used draft rule language developed by the Air Carrier Training Working Group of ARAC as the basis for developing this proposal. This working group was comprised of many part 121 operators.

In allotting the 30-day comment period, the FAA was responding to requests for relief from the aviation industry.

Because FAA Orders are guidance material and not regulatory, they are reviewed and updated to coincide with regulatory requirements, when warranted.

Modifications

The following modifications have been made to the final rule:

—''Aircrew designated examiner'' has been expanded to ''aircrew designated examiner employed by the operator'' under proposed §§ 121.413(a)(2) and 135.339(a)(2), to further clarify who, other than an FAA inspector, may conduct an observation check.

—Proposed §§ 121.411(f), 121.412(f), 135.337(f), and 135.338(f) have been revised to make them clear and parallel. These proposed sections contain the qualification requirements for check airmen/simulator and check airmen/airplane.

—Proposed paragraphs (f)(2)(i), (ii), and (iii) have been withdrawn from the qualifications sections for flight instructors (simulator) and check airmen (simulator)—§§ 121.411, 121.412, 135.337, and 135.338. The FAA has decided to maintain the existing regulatory scheme under which operators can seek FAA approval for line observation programs. See Advisory Circular 120–35 as amended.

—Proposed paragraphs (a)(2) of §§ 121.413, 121.414, 135.339, and 135.340 (simulator) have been revised to allow operators until March 1997 (9 months after the publication date of this rule) to come into compliance with the new requirement for operators to conduct observation checks of check airmen and flight instructors once every 24 months.

—Proposed § 121.412(c)(1) has been revised to give part 121 operators and flight instructors (simulator) who currently only provide proficiency instruction, until March 1997 to obtain a type rating if they do not already have one.

—Proposed § 135.338(c)(1) has been revised to give part 135 operators and flight instructors (simulator) until March 1997 to obtain a type rating for the type, class, or category of aircraft in which they instruct if they do not already have one.

Although not in response to comments, the FAA has also added the word ''pilot'' in front of ''flightcrew members'' under proposed paragraphs (e) of §§ 121.411 and 121.412. This clarification is necessary because 121.383(c) (the so-called ''Age 60 rule'') only applies to pilot flightcrew members.

With the above modifications being incorporated, this rule is adopted as proposed.

The FAA is making this rule effective on the date of its publication in the Federal Register pursuant to 5 U.S.C. Sections 553(d)(1) and 553(d)(3). Because this new rule eliminates certain medical certification requirements, it relieves a restriction that used to exist and thus justifies an immediate change. (See 5 U.S.C. Section 553(d)(1)). Because much of the rest of these rules are merely a recodification of long-standing rules, good cause exists for making this recodification effective immediately. (See 5 U.S.C. Section 553 (d)(3)). Although these rules are effective immediately, the FAA is allowing operators and other affected individuals 9 months to come into compliance with two new requirements: the 24-month observation check and the type rating requirements. (See earlier discussion.)

Paperwork Reduction Act

As stated in the NPRM, the paperwork burden associated with this rule is negligible. The FAA estimated the average burden hour per respondent at 15 seconds per individual every 2 years. As discussed above under ''Effective Date,'' OMB is reviewing the information collection requirements associated with this rule and will publish a notice informing the public when these information requirements become effective.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA is not aware of any differences that this rule presents, nor were any differences indicated in any of the comments received.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes

on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is not ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule will not have a significant impact on a substantial number of small entities and will have no impact on international trade. These analyses, available in the docket, are summarized below.

Benefits and Costs

The requirements of this rule will not impose any additional cost on air carriers or other training entities currently providing simulator training. These additional requirements can be incorporated into current industry practice.

In the past, the FAA has issued exemptions to air carriers and to training entities (FlightSafety, Simuflite, etc.), which permit them to use simulators to conduct training and checking for air carrier pilots. However, the FAA imposed certain conditions and limitations in these exemptions. The Agency required that the check airmen and instructors of these entities hold the same airman certificates and ratings and complete the same proficiency checks as required to serve as PIC in air carrier operations. In addition, check airmen and flight instructors that conduct Line-Oriented Flight Training and Line Operational Evaluation in simulators had to be line qualified or line familiar and had to participate in a line observation program. This line observation program has the same requirements as the one that is being adopted for check airmen (simulators) and flight instructors (simulator). Therefore, this program will not impose any additional burden on the aviation industry.

In addition, current FAA policy, as part of Flight Standards Work Program Functions, requires aviation safety inspectors to observe, at least once annually, half of the check airmen and instructors while they perform their duties. A portion of the current observation practice and policy is incorporated into the Code of Federal Regulations by this rulemaking. Since the above policy and practice exceed the requirements, this rulemaking will not impose any additional burden on the airline industry.

The rule affords cost savings to air carriers by allowing them to hire experienced pilots who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices if they satisfy the above requirements. These pilots, many of whom are retired, would probably offer their services at lower cost to the airlines than the full-time pilots that currently are performing these functions. Air carriers also will be able to reduce disruption to their operations by contracting with part-time pilots to provide training and checking services, thereby eliminating the need to pull line pilots from their routine duties. The rule also will reduce costs to the industry because it allows all initial and transition flight training for check airmen and instructors to be conducted in simulators or in flight training devices as opposed to the current in-flight requirement. Accordingly, the FAA finds this rule to be cost-beneficial because it does not impose any additional costs on the aviation industry and allows for less costly training of future pilots.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule is expected to have a ''significant (positive or negative) economic impact on a substantial number of small entities.'' Based on the standards and thresholds specified in implementing the FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

This rule is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. The cost savings that would be realized from the rule are not likely to be significant enough to affect the competitive position of domestic concerns vis-a-vis foreign concerns.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, it is certified that this rule 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. This rule is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Safety, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Parts 121 and 135 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, and 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44901–44904, 44912, 46105.

2. Section 121.411 is revised to read as follows:

§ 121.411 Qualifications: Check airmen (airplane) and check airmen (simulator).

(a) For the purposes of this section and § 121.413:

(1) A check airman (airplane) is a person who is qualified, and permitted, to conduct flight checks or instruction in an airplane, in a flight simulator, or in a flight training device for a particular type airplane.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks or instruction, but only in a flight simulator or in a flight training device for a particular type airplane.

(3) Check airmen (airplane) and check airmen (simulator) are those check airmen who perform the functions described in § 121.401(a)(4).

(b) No certificate holder may use a person, nor may any person serve as a check airman (airplane) in a training program established under this subpart unless, with respect to the airplane type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the

airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.413 including in-flight training and practice for initial and transition training;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate;

(6) Has satisfied the recency of experience requirements of § 121.439; and

(7) Has been approved by the Administrator for the check airman duties involved.

(c) No certificate holder may use a person nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the airplane type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.413; and

(5) Has been approved by the Administrator for the check airman (simulator) duties involved.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) Check airmen who have reached their 60th birthday or who do not hold an appropriate medical certificate may function as check airmen, but may not serve as pilot flightcrew members in operations under this part.

(f) A check airman (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type airplane involved within the 12-month period preceding the performance of any check airman duty in a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or in the calendar month after the month in which it is due.

3. Section 121.412 is added to read as follows:

§ 121.412 Qualifications: Flight instructors (airplane) and flight instructors (simulator).

(a) For the purposes of this section and § 121.412:

(1) A flight instructor (airplane) is a person who is qualified to instruct in an airplane, in a flight simulator, or in a flight training device for a particular type airplane.

(2) A flight instructor (simulator) is a person who is qualified to instruct, but only in a flight simulator, in a flight training device, or both, for a particular type airplane.

(3) Flight instructors (airplane) and flight instructors (simulator) are those instructors who perform the functions described in § 121.401(a)(4).

(b) No certificate holder may use a person nor may any person serve as a flight instructor (airplane) in a training program established under this subpart unless, with respect to the airplane type involved, that person—

(1) Holds the airman certificates and rating required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.414, including in-flight training and practice for initial and transition training;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or a Class II medical certificate as appropriate.

(6) Has satisfied the recency of experience requirements of § 121.439.

(c) No certificate holder may use a person, nor may any person service as a flight instructor (simulator) in a training program established under this subpart, unless, with respect to the airplane type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part except before February 19, 1997 that person need not hold a type rating for the airplane type involved provided that he or she only provides the instruction described in §§ 121.409(b) and 121.441;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part; and

(4) Has satisfactorily completed the applicable training requirements of § 121.414.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section as applicable shall be entered in the individual's training record maintained by the certificate holder.

(e) Airmen who have reached their 60th birthday, or who do not hold an appropriate medical certificate, may not function as a flight instructor (airplane), nor may they serve as pilot flightcrew members in operations under this part.

(f) A flight instructor (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type of airplane within the 12-month period preceding the performance of any flight instructor duty in a flight simulator (and must hold a Class I or Class II medical certificate as appropriate); or

(2) Satisfactorily complete an approved line-observation program

within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section is considered completed in the month required if completed in the calendar month before, or the calendar month after the month in which it is due.

4. Section 121.413 is revised to read as follows:

§ 121.413 Initial and transition training and checking requirements: Check airmen (airplane), check airmen (simulator).

(a) No certificate holder may use a person nor may any person serve as a check airman unless—

(1) That person has satisfactorily completed initial or transition check airman training; and

(2) Within the preceding 24 calendar months that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an airplane, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for check airmen must include the following:

(1) Check airman duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The appropriate corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(d) The transition ground training for check airmen must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the check airman is in transaction.

(e) The initial and transition flight training for pilot check airmen (airplane), flight engineer check airmen (airplane), and flight navigator check airmen (airplane) must include the following:

(1) The safety measures for emergency situations that are likely to develop during a check.

(2) The potential results of improper, untimely, or non-execution of safety measures during a check.

(3) For pilot check airman (airplane)—

(i) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this part; and

(ii) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during a check.

(4) For flight engineer check airmen (airplane) and flight navigator check airmen (airplane), training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for check airmen (simulator) must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this part. This training and practice must be accomplished in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators or flight training devices, or both, to ensure competence to conduct the flight checks required by this part.

5. Section 121.414 is added to read as follows:

§ 121.414 Initial and transition training and checking requirements: flight instructors (airplane), flight instructors (simulator).

(a) No certificate holder may use a person nor may any person serve as a flight instructor unless—

(1) That person has satisfactorily completed initial or transition flight instructor training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, an operator check airman, or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an airplane, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) Flight instructor duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting flight instruction.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory training progress.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(7) Except for holders of a flight instructor certificate—

(i) The fundamental principles of the teaching-learning process;

(ii) Teaching methods and procedures; and

(iii) The instructor-student relationship.

(d) The transition ground training for flight instructors must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the flight instructor is in transition.

(e) The initial and transition flight training for flight instructors (airplane), flight engineer instructors (airplane), and flight navigator instructors (airplane) must include the following:

(1) The safety measures for emergency situations that are likely to develop during instruction.

(2) The potential results of improper, untimely, or non-execution of safety measures during instruction.

(3) For pilot flight instructor (airplane)—

(i) In-flight training and practice in conducting flight instruction from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence as an instructor; and

(ii) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during instruction.

(4) For flight engineer instructors (airplane) and flight navigator instructors (airplane), in-flight training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for flight instructors (simulator) must include the following:

(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this part. This training and practice must be accomplished in full or in part in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators or flight training devices, or both, to ensure competence to conduct the flight instruction required by this part.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS.

6. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

7. Section 135.337 is revised to read as follows:

§ 135.337 Qualifications: Check airmen (aircraft) and check airmen (simulator).

(a) For the purposes of this section and § 135.339:

(1) A check airman (aircraft) is a person who is qualified to conduct flight checks in an aircraft, in a flight simulator, or in a flight training device for a particular type aircraft.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks, but only in a flight simulator, in a flight training device, or both, for a particular type aircraft.

(3) Check airmen (aircraft) and check airmen (simulator) are those check airmen who perform the functions described in §§ 135.321 (a) and 135.323(a)(4) and (c).

(b) No certificate holder may use a person, nor may any person serve as a check airman (aircraft) in a training program established under this subpart unless, with respect to the aircraft type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate.

(6) Has satisfied the recency of experience requirements of § 135.247; and

(7) Has been approved by the Administrator for the check airman duties involved.

(c) No certificate holder may use a person, nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the aircraft type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the applicable airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339; and

(5) Has been approved by the Administrator for the check airman (simulator) duties involved.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) Check airmen who do not hold an appropriate medical certificate may function as check airmen (simulator), but may not serve as flightcrew members in operations under this part.

(f) A check airman (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved within the 12-month preceding the performance of any check airman duty in a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or the calender month after the month in which they are due.

8. Section 135.338 is added to read as follows:

§ 135.338 Qualifications: Flight instructors (aircraft) and flight instructors (simulator).

(a) For the purposes of this section and § 135.340:

(1) A flight instructor (aircraft) is a person who is qualified to instruct in an aircraft, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft.

(2) A flight instructor (simulator) is a person who is qualified to instruct in a flight simulator, in a flight training device, or in both, for a particular type, class, or category aircraft.

(3) Flight instructors (aircraft) and flight instructors (simulator) are those instructors who perform the functions described in § 135.321(a) and 135.323 (a)(4) and (c).

(b) No certificate holder may use a person, nor may any person serve as a flight instructor (aircraft) in a training program established under this subpart unless, with respect to the type, class, or category aircraft involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.340;

(5) Holds at least a Class III medical certificate; and

(6) Has satisfied the recency of experience requirements of § 135.247.

(c) No certificate holder may use a person, nor may any person serve as a flight instructor (simulator) in a training program established under this subpart, unless, with respect to the type, class, or category aircraft involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this part except before February 19, 1997 that person need not hold a type rating for the type, class, or category of aircraft involved.

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this part; and

(4) Has satisfactorily completed the applicable training requirements of § 135.340.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) An airman who does not hold a medical certificate may function as a flight instructor in an aircraft if functioning as a non-required crewmember, but may not serve as a flightcrew member in operations under this part.

(f) A flight instructor (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved within the 12-month period preceding the performance of any flight instructor duty in a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered completed in the month required if completed in the calendar month before, or in the calendar month after, the month in which they are due.

9. Section 135.339 is added to read as follows:

§ 135.339 Initial and transition training and checking: Check airmen (aircraft), check airmen (simulator).

(a) No certificate holder may use a person nor may any person serve as a check airman unless—

(1) That person has satisfactorily completed initial or transition check airman training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before or the calendar month after the month in which it is due.

(c) The initial ground training for check airmen must include the following:

(1) Check airman duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The applicable methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(d) The transition ground training for check airmen must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the aircraft to which the check airman is in transition.

(e) The initial and transition flight training for check airmen (aircraft) must include the following—

(1) The safety measures for emergency situations that are likely to develop during a check;

(2) The potential results of improper, untimely, or nonexecution of safety measures during a check;

(3) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this part; and

(4) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during checking.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for check airmen (simulator) must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this part. This training and practice must be accomplished in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight checks required by this part.

10. Section 135.340 is added to read as follows:

§ 135.340 Initial and transition training and checking: Flight instructors (aircraft), flight instructors (simulator).

(a) No certificate holder may use a person nor may any person serve as a flight instructor unless—

(1) That person has satisfactorily completed initial or transition flight instructor training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, as operator check airman, or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) Flight instructor duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The applicable methods, procedures, and techniques for conducting flight instruction.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory training progress.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(7) Except for holders of a flight instructor certificate—

(i) The fundamental principles of the teaching-learning process;

(ii) Teaching methods and procedures; and

(iii) The instructor-student relationship.

(d) The transition ground training for flight instructors must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the type, class, or category aircraft to which the flight instructor is in transition.

(e) The initial and transition flight training for flight instructors (aircraft) must include the following—

(1) The safety measures for emergency situations that are likely to develop during instruction;

(2) The potential results of improper or untimely safety measures during instruction;

(3) Training and practice from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to ensure competence to conduct the flight instruction required by this part; and

(4) The safety measures to be taken from either the left or right pilot seat for emergency situations that are likely to develop during instruction.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for a flight instructor (simulator) must include the following:

(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this part. These maneuvers and procedures must be accomplished in full or in part in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight instruction required by this part.

Issued in Washington, D.C., on May 30, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–14084 Filed 6–14–96; 8:45 am]

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Federal Register

Monday
June 17, 1996

Part V

Department of Health and Human Services

Administration for Children and Families

National Center on Child Abuse and Neglect Projects; Fiscal Year 1996 Availability of Funds and Requests for Comments; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/NCCAN/DP 96–1]

Fiscal Year 1996 National Center on Child Abuse and Neglect; Availability of Fund and Requests for Applications

AGENCY: National Center on Child Abuse and Neglect (NCCAN), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of the availability of financial assistance and requests for applications to support child abuse and neglect research, demonstration, and training and technical assistance projects as authorized by the Child Abuse Prevention and Treatment Act, as amended.

SUMMARY: The National Center on Child Abuse and Neglect (NCCAN) announces the availability of Fiscal Year 1996 funding.

Funds from NCCAN are for research on the causes, prevention, identification, treatment and cultural distinctions of child abuse and neglect; for research on appropriate, effective and culturally-sensitive investigative, administrative and judicial procedures with respect to cases of child abuse; and for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

This announcement contains forms and instructions for submitting an application.

DATES: The closing time and date for the receipt of applications under this announcement is 4:30 p.m. (Eastern Time) August 16, 1996. Applications received after 4:30 p.m. will be classified as late.

ADDRESSES: Mail applications to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447, ATTN: _____ (Reference announcement number and specify Priority Area 1.01, 2.01, or 2.02).

Hand-delivered, courier or overnight applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., (Eastern time), Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20447, ATTN: _____ (reference number and specify Priority Area 1.01, 2.01, or 2.02).

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center Technical Assistance Team at 1–800–351–2293 is available to answer questions regarding application requirements and to refer you to the appropriate contact person in NCCAN for programmatic questions.

INTENT TO APPLY: If you are going to submit an application, send a postcard or call in the following information: The name, address, and telephone number of the contact person; the name of the organization; and the priority area(s) in which you may submit an application, within two weeks of the receipt of this announcement to: Administration on Children, Youth and Families, Operations Center, 3030 Clarendon Boulevard, Suite 240, Arlington, VA 22201. The telephone number is 1–800–351–2293. This information will be used to determine the number of expert reviewers needed and to update the mailing list of persons to whom the program announcement is sent.

SUPPLEMENTARY INFORMATION: This program announcement consists of three parts. Part I provides information on the National Center on Child Abuse and Neglect and general information on the application procedures. Part II describes the review process, additional requirements for the grant applications, the criteria for the review and evaluation of applications, and the programmatic priorities for which applications are being solicited. Part III provides information and instructions for the development and submission of applications.

The forms to be used for submitting an application follow Part III. Please copy as single-sided forms and use in submitting an application under this announcement. No additional application forms are needed to submit an application.

Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds.

Outline of Announcement

Part I—General Information

A. Background

The Administration on Children, Youth and Families (ACYF) administers national programs for children and youth, works with States and local communities to develop services which support and strengthen family life, seeks out joint ventures with the private sector to enhance the lives of children and their families, and provides information and other assistance to parents, public and private agencies, States and local communities, and other entities.

The concerns of ACYF extend to all children from birth through adolescence. Many of the programs administered by the agency focus on children from low-income families; children and youth in need of foster care, adoption, or other child welfare services; preschool children; children with disabilities; abused and neglected children; runaway and homeless youth; and children from Native American and migrant families.

Located organizationally within ACYF, the National Center on Child Abuse and Neglect (NCCAN) was established within the Department of Health and Human Services in 1974 by the Child Abuse Prevention and Treatment Act (the Act).

NCCAN conducts activities designed to assist and enhance national, State and community efforts to prevent, identify, and treat child abuse and neglect. These activities include: conducting research and demonstrations; supporting service improvement projects; gathering, analyzing, and disseminating information through a national clearinghouse; and awarding grants to eligible States to develop, strengthen, and carry out child abuse and neglect prevention and treatment programs and programs relating to the investigation

and prosecution of child abuse cases. In addition, the legislatively-mandated Advisory Board on Child Abuse and Neglect and the Inter-Agency Task Force on Child Abuse and Neglect produce periodic reports on child abuse and neglect activities.

B. Statutory Authority Covered Under This Announcement

NCCAN solicits applications under the authority of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) as amended. The Act was most recently reauthorized through September 1995 and was further amended through the Child Abuse, Domestic Violence, Adoption, and Family Services Act of 1992 (Pub. L. 102–295, 5/28/92), the Juvenile Justice and Delinquency Act Amendments of 1992 (Pub. L. 102–586, 11/4/92), and Title IV of the Human Services Amendments of 1994 (Pub. L. 103–252, sec. 401). Funds were appropriated, at a reduced level, under the 1996 Appropriation Bill (Pub. L. 104–134) through September 1996. (CFDA: 93.670)

Part II. The Review Process and Priority Areas

A. Eligible Applicants

Each priority area description contains information about the types of agencies and organizations eligible to apply. Because eligibility varies depending on statutory provisions, it is critical that the ''Eligible Applicants'' section of each priority area be read carefully.

Before review, each application will be screened for applicant organization eligibility. Applications from ineligible organizations will not be reviewed in the competition, and the applicants will be so informed.

Only agencies and organizations, not individuals, are eligible to apply under this Announcement. All applications developed jointly by more than one agency or organization must identify a single lead organization and official applicant. Participating agencies and organizations can be included as co-participants, subgrantees, or subcontractors. For-profit organizations are eligible to participate as subgrantees or subcontractors with eligible non-profit organizations under all priority areas.

Any non-profit agency must submit proof of non-profit status either by making reference to its listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or by submitting a copy of its letter from the IRS under IRS Code Section 501(c)(3). The ACYF cannot fund a non-profit applicant without acceptable proof of its non-profit status.

B. Review Process and Funding Decisions

Before applications are reviewed, each application is screened to determine whether the applicant organization is eligible. Applications from ineligible organizations will not be reviewed in the competition, and the applicant will be so informed. Applications that omit essential components of the application or fail to comply with format specifications described in Part III will have their application withdrawn from further consideration.

Applications will be screened for categorical appropriateness. If applications are found to be inappropriate for the priority area in which they were submitted, applicants will be contacted for verbal approval of redirection to a more appropriate priority area. Redirection does not affect decision-making in the competitive process following the initial screening.

Timely applications from eligible applicants will be reviewed and scored competitively. Experts in the field, generally persons outside the Federal government, will use the appropriate evaluation criteria listed later in this section to review and score the applications. The result of this review is a primary factor in funding decisions.

NCCAN and ACYF reserve the option to discuss applications with, or refer them to, other Federal or non-Federal funding sources when this is in the best interest of the Federal government or the applicants. ACYF may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ACYF in making funding decisions.

In making decisions on awards, ACYF may give preference to applications which focus on: over-represented or under-served populations; substantially innovative strategies with the potential to improve theory or practice in child welfare and child protective services; a model practice or set of procedures that holds the potential for replication by organizations that administer or deliver child welfare and/or child protective services; substantial involvement of volunteers, where appropriate; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit from low Federal investment; and/or substantial involvement by national or community foundations.

To the greatest extent possible, funding decisions will reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ACYF may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

A panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. To facilitate this review, applicants should address each requirement in the priority area description under the appropriate section of the Program Narrative Statement.

The reviewers will determine the strengths and weaknesses of each application using the evaluation criteria listed below and provide verbal and written comments and assign numerical scores to each application. The point value following each criterion heading is the maximum score for that criterion.

All research applications will be evaluated against the following criteria:

(a) Objectives (5 points). The application pinpoints the research problem addressed; concisely states the specific objectives of the study; references theory or craft knowledge supporting the study; and states the question(s) or hypothesis(es) to be tested.

(b) Background and Significance (maximum of 19 points). The application provides a thoughtful discussion about the current state of knowledge related to the research problem addressed by presenting a review of the relevant literature, including any pilot tests, in order to establish the need for the study as a replication to validate existing knowledge or a new study to fill a knowledge gap. Applicants also must indicate how the proposed study findings are expected to significantly inform policy, improve practice, and/or advance the science of child abuse and neglect research. Bibliographic references for all citations should be included.

(c) Methodology (51 points). The application precisely defines the terms and variables used in the study; identifies data sources, data collection processes and instruments, including the instruments' reliability and validity with the population proposed; and describes the data analysis plan. If the

study proposes to do secondary data analysis, the application describes access to the data source.

The application describes the characteristics of the target population and the rationale, strengths, and potential limitations for interpretations of findings due to the gender and ethnic composition of the proposed study sample; depicts recruitment and retention procedures; provides realistic estimates of attrition, and discusses appropriate procedures for handling attrition or interpreting the findings of the study in light of attrition.

The proposed methodology protects human subjects; reflects sensitivity to ethical issues that may arise and provides for reporting suspected abuse and/or neglect as governed by applicable laws and regulations; describes procedures for soliciting approval from an institutional review board (IRB), if applicable, and protecting the integrity and confidentiality of data.

The applicant(s) commits to using data processing and documentation practices in accordance with the needs of the National Data Archive on Child Abuse and Neglect and to providing study data to the Archive at the conclusion of the project, as applicable. A manual describing such practices, *The Preparation of Data Sets for Analysis and Dissemination: Technical Standards for Machine-Readable Data*, can be obtained free of cost from the National Data Archive on Child Abuse and Neglect located at Cornell University, Family Life Development Center, G20 MVR Hall, Ithaca, New York 14853–4401, 607–255–7794. Applicants must confirm that the final report will be prepared in the suggested format to ensure its readiness for dissemination by NCCAN and ACYF, if desired.

The application provides a fiscally responsible and workable plan of action; details a reasonable time-line and target dates; includes an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describes the responsibilities, activities, and/or training plans for each, if applicable. The application explicitly identifies the role of the author(s) of this proposal in relation to the work plan and administrative structure.

The application proposes reasonable project costs and allocates sufficient funds across component areas. This information also must be included in the budget narrative.

(d) Staff Background and Organizational Experience (25 points). The application describes the qualifications of the key staff and consultants alluded to in the methods section (a curriculum vitae for each key staff person must be included with the application); the geographic accessibility of the personnel proposed; and access to special personnel resources to be tapped, if required.

The application describes the adequacy of the available facilities and organizational experience to perform the pertinent tasks of the proposed project effectively and efficiently. Organizational capability statements included with applications should be no longer than two pages. If collaboration is proposed, the nature and extent of the collaboration must be described in detail, and supported by letters of commitment.

The application describes the relationship between this project and any other Federally assisted work planned, anticipated, or underway, by the applicant.

All demonstration and training and technical assistance applications will be evaluated against the following criteria:

(a). Objectives and Need for Assistance (20 points). The application pinpoints the problem or issue requiring a solution and demonstrates the need for the assistance; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant; identifies other successful demonstration projects that may have implications for the proposed demonstration (which may include a review of the relevant literature); identifies the conceptual or theoretical framework for this model; and describes whether the proposed project replicates or modifies previously evaluated model(s) addressing the identified need. The application must pinpoint the location of the project and area and population to be served.

(b). Approach (35 points). The application outlines a sound and workable plan of action and time-line and details how the proposed work will be accomplished; describes the approach in detail and points out its unique features; cites factors which might accelerate or delay this approach, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as extraordinary social and community involvements; includes an adequate staffing plan, that lists key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describes the responsibilities, activities, and/or training plans for each (if applicable). The application proposes reasonable project costs and allocates sufficient funds appropriately across activities to accomplish the objectives.

The application, when appropriate, identifies the kinds of data to be collected and maintained, describes procedures for informed consent of participants, where applicable, and discusses the criteria to be used to evaluate the results of the project. The application describes the evaluation methodology that will be used to determine if the process proposed was implemented, if the needs identified were addressed, and if the benefits expected were achieved.

(c). Results or Benefits Expected (20 points). The application identifies the results and benefits to be derived, the extent to which they are consistent with the goals and objectives, and their contributions to policy and practice. The extent to which the proposed project costs are reasonable in view of the expected results.

(d). Staff Background and Organization Experience (25 points). The application identifies the educational and professional background of the project director/principal investigator and key project staff and the experience of the organization to demonstrate the applicant's ability to administer and implement the project effectively and efficiently. The role of the author(s) of this proposal in relation to the work plan and administrative structure should be explicitly identified. The application describes the relationships between the proposed project and other Federally assisted work planned, anticipated or underway by the applicant. If the project proposed is a collaboration, the application must describe the nature and extent of the collaboration including the responsibilities of the respective agencies in carrying out the activities identified in the work-plan.

D. Structure of Priority Area Descriptions

Each priority area description is composed of the following sections:

Eligible Applicants: This section specifies the type of organization eligible to apply under the particular priority area. Specific restrictions are noted where applicable.

Purpose: This section presents the basic focus and/or broad goal(s) of the priority area.

Background Information: This section briefly discusses the legislative background and the current state-of-the-

art and/or current state-of-practice supporting the need for the particular priority area activity. Relevant information on projects previously funded by ACYF and/or others, and State models are noted.

Minimum Requirements for Project Design: This section presents the minimum requirements which must be addressed in response to the evaluation criteria. For research projects, these requirements relate to project objectives, background and significance, methodology, staff background and organizational experience. For demonstration projects, these requirements relate to objectives and need for assistance, approach, results or benefits expected, and staff background and organizational experience. Reviewers will use the details expected under these headings in response to each priority area to evaluate the applications.

Project Duration: This section specifies the maximum allowable project period; it refers to the amount of time for which Federal funding is available.

Federal Share of Project Cost: This section specifies the maximum amount of Federal support for the project for the first budget year.

Matching Requirement: This section specifies the minimum non-Federal contribution, either cash or in-kind match, required in relation to the maximum Federal funds requested for the project.

Anticipated Number of Projects To Be Funded: This section specifies the number of projects ACYF anticipates funding under the priority area.

Applications that fail to comply with the specific priority area requirements in the section on ''Eligible Applicants'' will not be reviewed.

Non-responsiveness to the section ''Minimum Requirements for the Project Design'' is likely to result in a low evaluation score by the reviewers. Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Experience has shown that an application which is broader and more general in concept than the priority area description calls for invariably scores lower than one more clearly focused on, and directly responsive to, the specific priority area.

E. Available Funds

The ACYF intends to award new grants resulting from this announcement during the fourth quarter of Fiscal Year 1996, subject to the availability of funds. The size of the actual awards will vary from priority area to priority area.

Each priority area description specifies the maximum Federal share of the project costs and the anticipated number of projects to be funded.

''Budget period'' is the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. ''Project period'' is the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the specified maximums. Non-Federal share contributions may exceed the minimums specified when the applicant is able to do so. However, applicants only should propose a non-Federal share they can realistically provide because ACF will disallow any unmatched Federal funds.

For multi-year projects, continued Federal funding beyond the first budget period depends upon satisfactory performance by the grantee, availability of funds from future appropriations, and a determination that continued funding is in the best interest of the Government.

F. Priority Area Descriptions and Requirements

1.01 University-Based Doctoral or Medical Student and Faculty Fellowships in Child Abuse and Neglect
2.01 Demonstration Models on Neglect
2.02 National Resource Center on Child Maltreatment

On October 25, 1994 (Federal Register Vol. 59, No. 205, pp. 53652–53657) NCCAN published, as required by the authorizing legislation, a notice of the proposed research and demonstration priorities for Fiscal Years 1995 and 1996. The notice provided a 60-day period for public comment on the proposed areas. NCCAN received 81 written responses. A detailed description of those responses was included in the notice of availability of funds and request for applications published on May 9, 1995 (Federal Register Vol. 60, No. 89, pp. 24700–24732). The priority areas selected for that announcement were chosen by prioritizing needs, matched to available funding levels, with due consideration of the public comments on the proposed priorities. This announcement is based on the proposed priority publication and public comments. Public responses to those proposed priority topics which were not presented in previous announcements are described here.

Thirty-seven letters commented on the proposed research topic focusing on the impact of community-based family support and family preservation programs on child abuse and neglect. Almost all concurred with the direction of this priority. Some writers suggested that the target populations and the target findings needed greater clarity. By designating four populations of interest and four outcomes, the impression may have been given that all four populations and all four outcomes were to be included in each proposal, creating projects of scope and complexity exceeding available funding. Many criticisms targeted the lack of clarity between the priority area and ongoing Federal evaluations of family support and family preservation services. The proposed population categories and outcomes described in the previous announcement were intended to focus applicants' thinking on populations and outcomes of primary interest to NCCAN. If this topic is pursued, applicants should feel free to suggest (and justify) other populations or subgroups and outcomes, and select only those logically and appropriately related to the outcomes, theoretical foundation, research methods and measures proposed. Regardless of population and outcomes, each applicant will be expected to propose explorations that will inform future prevention and intervention strategies. With respect to the lack of sufficient funding for large-scale explorations of Child Protective Service (CPS) populations and service outcomes, this topic has been subsumed in the list of suggested topics for university-based doctoral or medical student and faculty fellowship studies.

Regarding field-initiated research, which was not included as a separate topic in the proposed priorities, several respondents suggested reinstating the previously funded priority area because it focused the innovative thinking of the research community specifically on issues of child maltreatment. NCCAN, recognizing the importance of innovative research from the field and has taken those comments into consideration in developing this announcement.

Twenty-five comments addressed the proposal to develop models for centers of excellence in research. A number of respondents questioned this approach and suggested alternatives for configuring research centers, such as developing partnerships with for-profit companies, universities, or other agencies. Seventeen respondents supported this priority area as it was described. Many comments in both categories supported the graduate research and medical research fellowships issued previously. Both

topics were intended to support the continued development of a research infrastructure and to attract new researchers to the field. These goals have been combined in priority area (1.01) for a block of fellowships for doctoral or medical students and a faculty member to conduct child abuse and neglect research.

Seventeen responses addressed the two priority areas proposing service demonstrations on models for neglect. Thirteen made suggestions for improving the priority area, only one did not support the priority. Comments focused primarily on clarifying the populations to be served and studied, the service approaches to be demonstrated, and the partnerships required between the proposed organization and child protection service agencies and/or community-based programs. Many writers suggested additional populations meriting study (e.g., families with substance abuse and addiction problems, families experiencing domestic violence, parents with mental retardation, families of adoption, and families with children with special needs). Respondents expressed the need to select clearly defined, homogeneous populations in order to conduct rigorous research and have generalizable findings. With regard to the two approaches discussed in the announcement (ecological and psychosocial), over half supported a combined approach. The remainder stressed the importance of matching the approach to client needs, available resources, and selection of outcome variables and measures. Those comments have been incorporated into the priority appearing in this announcement. Based on comments, the project length will be expanded to five years.

Ongoing infrastructure support activities, such as resource centers and training and technical assistance activities, also received support for continuation.

Other respondents indicated the need to acknowledge the role parental substance abuse and domestic violence may play in preventing and treating child abuse and neglect regardless of topic focus. NCCAN supports including these issues, as appropriate, and will reiterate in the priority area descriptions the need to focus on parental substance abuse and domestic violence as important issues, as research study variables, and as co-occurring problems in demonstration projects.

NCCAN encourages applications from applicants who bring a special understanding of the dynamics of communities over-represented in the child protective service and child welfare systems. There is a compelling need to generate knowledge about these populations through research based upon conceptual frameworks that include appropriate cultural and sociological perspectives. Researchers with experience or the potential to examine over-represented and/or under-served populations can make significant and unique contributions to knowledge about child abuse and neglect, diversity, and over-representation. Applications from Historically Black Colleges and Universities may receive special consideration, in concurrence with Departmental precedent.

Applicants are strongly encouraged to build new studies on the findings of previously funded NCCAN grants. Information on prior research and demonstration projects supported by NCCAN and other studies on child maltreatment are available from the Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, DC 20013, (1–800–FYI–3366). The Clearinghouse (a member of the Consortium of Clearinghouses) can provide information on the other Clearinghouses and Resource Centers having special information resources on substance abuse and domestic violence.

1.01 University-Based Doctoral or Medical Student and Faculty Fellowships in Child Abuse and Neglect

Eligible Applicants: Institutions of higher education, including medical schools, teaching hospitals, and Historically Black Colleges and Universities on behalf of qualified doctoral students, medical students, residents (medical, surgical, pediatric, or others), house officers, or fellows enrolled in the institution and faculty employed by the institution. To be eligible to administer such a grant, the institution must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Post-Secondary Accreditation, the Accreditation Council for Graduate Medical Education, American Association of Medical Colleges, or the Liaison Committee for Medical Education, as applicable. While an individual is considered to be the beneficiary of the grant support, awards will be made only to eligible institutions on behalf of their qualified candidates.

Purpose: To provide support for doctoral students, medical students, residents, house officers, or fellows, who show promise and demonstrate serious interest and commitment to issues of child maltreatment and faculty to conduct research on critical issues in child abuse prevention, identification, and treatment in order to cultivate the academic infrastructure, support the growth of the university-based research capacity for child abuse and neglect, and encourage doctoral-level students and faculty to pursue careers in child abuse and neglect research.

Background Information: The research community has highlighted the need to draw new researchers into the field of child abuse and neglect (*Understanding Child Abuse and Neglect*, National Research Council, Washington, D.C.: 1993). During FYs 1991, 1992, and 1994, NCCAN funded 26 graduate research fellowships for doctoral candidates to complete dissertations addressing critical issues in child abuse and neglect. This activity proved rewarding for NCCAN and garnered the support of the field. NCCAN is expanding this effort to include doctoral students, medical students, residents, or fellows, and faculty interested in pursuing child abuse and neglect research projects. Faculty, doctoral students, and students in medical schools, resident or fellows programs are encouraged to apply for support through their schools and interdisciplinary programs in social sciences, human development, community and family development, human services, social work, medicine, nursing, special education, early childhood education, psychology, sociology, anthropology, public health, child study, minority studies, and criminology.

NCCAN proposes to award funds for fellowships in blocks to eligible institutions. Each institutional block would contain up to four students and one faculty member. The students and faculty member may pursue their own individual research or work on coordinated projects on child abuse and neglect. In addition to submitting all the required reports to NCCAN, the faculty member's work may lead to publications and the students' work may lead to their doctoral dissertations or fulfill the requirements of a major research project (e.g., independent study projects requiring a minimum commitment of 6 to 9 graduate credit hours).

Institutions will be selected competitively, with attention to geographic distribution, and with at least one grant to Historically Black Colleges and Universities (HBCU) in order to generate research and researchers particularly responsive to issues of cultural context and the over-representation of some groups in child protective systems.

Examples of the proposed topics to be addressed and issues to be studied for these fellowships include, but are not limited to, the following topics: (1) Prevention effectiveness studies; (2) CPS service interventions and outcomes studies; (3) treatment outcome studies; (4) studies focusing on over-represented and/or under-served populations in the child welfare and child protective services; (5) studies of the impact of managed care on child maltreatment prevention and treatment programs; and (6) secondary analysis of existing data sets. Medical students, residents, and fellows are also encouraged to consider research on new medical screening, diagnostic, or interview protocol techniques or treatments for child abuse and neglect.

NCCAN has a general interest in research conducted in cooperation/partnership with State or local Child Protective Services/child welfare systems, prevention-oriented and/or service-providing community-based organizations and/or systems, and teaching hospitals with multidisciplinary child protection teams.

(1) Prevention effectiveness study topics might include tests of effectiveness for various models of developmentally appropriate, comprehensive prevention services in various settings; effectiveness of parenting education and peer-support parent programs; studies of how interactions between fathers and children promote or reduce the risk of child maltreatment; studies of the relationship of parental discipline practices and child maltreatment; or other topics related to prevention effectiveness as proposed by applicants.

(2) Research studies on CPS service interventions and outcomes with particular interest on families: (a) Referred to CPS, whose cases were unsubstantiated or unfounded, but were found to need services, and were referred for, or provided services, whose cases are now open or closed; (b) follow-up studies with families whose child abuse or neglect cases were substantiated or indicated, who received services that might have included short-term placement and reunification, and whose cases are now closed; and (c) families whose child abuse or neglect cases have been substantiated or indicated, who are receiving services which might include short-term placement and reunification, and whose cases are currently open. We are also interested in system responses to cases involving multiple forms of abuse. NCCAN encourages studies on the combination of neglect and physical abuse; cases involving substance abuse and/or domestic violence are also of interest. Type of services and moderating variables that impact the outcomes of service should be carefully defined. Family and child outcome variables might include service impacts on: (a) Child health and development, child and family functioning, recidivism, and frequency and duration of removals from these families, if any; (b) costs/cost effectiveness of service delivery approaches; (c) other issues related to these three populations as proposed by applicants.

(3) Treatment outcome study topics of interest include studies of the effectiveness of various approaches to the treatment of: (a) Children subjected to multiple forms of maltreatment; (b) child abuse and domestic violence; and (c) child abuse and substance abuse; or other subtopics related to these three areas, as proposed by applicants.

(4) Studies exploring the unique cultural dynamics of communities over-represented in the child protective service and child welfare systems; studies generating knowledge about the conceptual frameworks, sociological, psychological, and cultural perspectives which can inform interventions operating in these communities; examinations of over-represented and/or under-served populations; or other topics related to cultural dynamics as proposed by applicants.

(5) Studies of the impact of managed care on the delivery of child maltreatment prevention and treatment programs.

(6) Secondary analysis of existing data. NCCAN encourages the use of NIS, NCANDS, data-sets collected through other ACF-funded awards, and data stored at the National Data Archives on Child Abuse and Neglect located at Cornell University, Family Life Development Center, G20 MVR Hall, Ithaca, New York 14853–4401; telephone: 607–255–7794.

Each applicant institution should prepare a single submission packet composed of (up to) five individual research proposals. Each individual proposal will be evaluated against the criteria for evaluating research projects. For this priority area only, an exception is made regarding the 60-page limit described elsewhere in this announcement. However, the text of each individual proposal should not exceed a maximum of 15 pages. The total text for the five proposals cannot exceed a maximum of 75 pages. Application forms and all required attachments can add up to 25 more pages. Thus the total length of the institutional submission, including text, application, and attachments may be up to 100 pages. Human Subjects Assurances must be completed for each individual proposal; however, all other assurances should be submitted only once, by the institutional applicant. The academic institution, in accepting the award, agrees to waive overhead charges (indirect costs) and pass the entirety of the funds on to students and faculty as fellowships.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives

- Pinpoint the research problem being addressed.
- State the specific objectives of the study.
- State the question(s) or hypothesis(es) to be tested.

Background and Significance

- Discuss the current state of knowledge related to the research problem.
- Provide a review of the relevant literature, including any pilot tests.
- Demonstrate a conceptual framework that includes appropriate cultural perspectives and references theory or craft knowledge in support of the study.
- Establish the need for the study as either a replication to validate existing knowledge or as a new study to fill a knowledge gap. If applicable, indicate how the proposed study is distinguished from other on-going research of which it is a part.
- Indicate how the proposed study findings significantly inform policy, improve practice, and/or advance the science of child abuse and neglect research.
- Include all bibliographic references.

Methodology

- Describe the proposed methodology. Define the terms, variables, and design to be used in the study.
- Describe the population and sampling plan, the rationale, strengths, and potential limitations for interpretations of findings due to the gender and ethnic composition of the proposed study sample.
- Describe recruitment and retention procedures; provide realistic estimates of attrition, and discuss appropriate procedures for handling attrition or interpreting the findings of the study in light of attrition.

• Identify data sources, data collection procedures, and instruments, including information on reliability and validity of the instruments with the population proposed. If the study proposes secondary data analysis, describe access to the data source. Describe data management to safeguard the integrity and confidentiality of data.

• Describe the plan to prepare study data according to sound data processing and documentation practices in accordance with the needs of the National Data Archive on Child Abuse and Neglect.

• Provide a data analysis plan.

• Assure protections for human subjects; describe procedures for soliciting approval from an institutional review board (IRB), if applicable.

• Reflect sensitivity to ethical issues that may arise and make provision for reporting suspected abuse and/or neglect as governed by applicable laws and regulations.

• Provide a fiscally responsible and workable plan of action; detail a reasonable time-line and target dates; include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describe the responsibilities, activities, and/or training plans for each, if applicable.

• Describe strategies for disseminating the findings in a manner that would be useful to other researchers and practitioners in the field.

Staff Background and Organizational Experience

• Include evidence that the student candidates are enrolled and in good standing as doctoral or medical students, residents, or fellows in the sponsoring institution and verify the employment status of the faculty candidate.

• Document the agreement between the dean or chairperson and the faculty candidate indicating that the faculty candidate will be permitted to conduct the research project as part of his/her academic duties, and if needed, that a senior faculty member would be available to guide the project.

• Include a letter of support from a tenured faculty member, advisor, Dean, or Chairperson for each student seeking a fellowship, recommending the student's capability to undertake a research project of this nature.

• Describe the corporate capability of the institution to support a research initiative, in terms of the existing research infrastructure and academic climate.

• Include a short resume for each candidate (limit to one page) including information on education and relevant experiences.

• Describe the relationship between this project and any other Federally-assisted work planned, anticipated, or underway, by the applicant.

• Provide assurances that each candidate will attend a three-day annual spring meeting of NCCAN research grantees in Washington, D.C.; prepare a pre-meeting abstract of the research, quarterly progress reports, and a final project report in an NCCAN-suggested format ensuring ease of dissemination and utilization; prepare and submit at the conclusion of each individual study, the data in accordance with the needs of the National Data Archive on Child Abuse and Neglect, as described.

Project Duration: The length of the project may not exceed 17 months.

Federal Share of the Project Costs: The maximum Federal share of the project is not to exceed $75,000 per university or institution to fund up to four student-candidates at $13,750 each and $20,000 for the faculty candidate.

Matching Requirement: There is no matching requirement.

Anticipated Number of Projects to be Funded: It is anticipated that 3 sites will be funded.

2.01 Demonstration Models on Neglect

Eligible Applicants: Public or private nonprofit agencies, organizations, and institutions of higher learning. For-profit organizations are eligible to participate as subgrantees or subcontractors of eligible non-profit organizations.

Purpose: The intent of this priority area is to fund service models that address the prevention, intervention, and treatment needs of neglected children and their families. These models should provide for (a) early identification of families at risk of neglect, (b) identification of chronically neglectful families, and (c) neglected children (in placements or reunified) who may be in need of special services.

Projects may either present innovative approaches or be replications of previously evaluated and promising models. In either case, proposed models should build on previous research findings and NCCAN-sponsored symposium findings; they should also incorporate mental health, substance abuse, parenting education, and family support services. They should collect data on the costs and potential cost benefits of providing the proposed services. A strong evaluation component will be essential.

Background Information: Child neglect is the most common form of child maltreatment today. According to the latest NCANDS data available (Child Maltreatment 1994: Reports from the States to the National Center on Child Abuse and Neglect), 52.9% of all cases substantiated by child protection service agencies are neglect cases. Since NCANDS began tracking cases, neglect has been the predominant type of maltreatment. This is also true of the NIS data. Yet, efforts to focus attention on neglect have lagged significantly behind other forms of maltreatment.

Research indicates that the consequences for children who are neglected have a long-term negative impact. Child victims of neglect fail to develop secure psychological attachments as infants, and this seriously hinders their subsequent development. Neglected preschool children demonstrate a lack of readiness for learning, behavior problems, and less active interaction with peers. School-aged neglected children do poorly in school. The connection between delinquency and neglect is less clear, although according to some preliminary data from the U.S. Department of Justice's National Institute of Justice (Research Preview, February 1996), adolescents neglected as children were equally likely to be arrested for violent crimes as physically abused children. Neglected children under age 3 are at high risk for child fatalities. Parents of neglected children are also more likely to: have limited intellectual functioning; experience depression; abuse alcohol and drugs; and have limited education (Gaudin, Polansky, Kilpatrick and Shilton. ''Loneliness, Depression, Stress and Social Supports in Neglectful Families,'' October 1993, American Journal of Orthopsychiatry, Vol. 63, No. 4, pp. 597–605).

To address one aspect of this problem, NCCAN convened a symposium on chronic neglect in June 1993. Building upon lessons learned from previous demonstration models on neglect, the symposium addressed consensus-building on definitions, strategies for change through empowerment, research, treatment and policy topics. The Chronic Neglect Symposium Proceedings (1993) are available from the NCCAN Clearinghouse (800–394–3366). A number of studies referred to in the Proceedings suggest that programs for neglectful families based on building interpersonal strengths, fostering individual empowerment, and ensuring the provision of basic human needs in a safe environment were most likely to improve parenting, self-esteem

and coping ability among the neglectful population.

Designing services for families that neglect children is a challenge. Both ecological and psycho-social factors influence the manifestation of neglect. The many differences among neglectful families, including cultural and sociological distinctions, dictate a service model based on careful assessment of the family and services designed specifically for them.

Projects may be based on either an ecological, i.e., a neighborhood model, or the psycho-social model. If a project chooses the ecological model, it must be aggressive in its outreach to the community; conversely, if a project chooses to follow the psycho-social model, it must include home-based/family support services, parenting education, substance abuse and mental health services in its approach to addressing neglect.

The U.S. Advisory Board on Child Abuse and Neglect focuses on the ecological aspects in their report, Neighbors Helping Neighbors (1993). The report recommends several strategies for strengthening neighborhoods and improving the quality of support available to families within their own communities, as a national strategy for the protection of children. Recommendations include:

- Involving residents as participants, planners and managers of neighborhood services,
- Encouragement of foster grandparent programs,
- Empowerment through home ownership,
- Implementing prevention zones by public/private partnerships, and
- Funding more family resource centers.

The importance of neighborhoods in combatting neglect is also emphasized in the 1994 Kids Count Data Book (The Annie E. Casey Foundation, pp. 4–7).

The report issued by the National Research Council (NRC, 1993, pp. 50–52) also highlights the ecological aspects. That report states that ''dysfunctional families are often part of a dysfunctional environment'' (p. 60). Its recommendations for intervention programs include: home-based approaches, improving socio-economic conditions and reversing social isolation.

Other research focuses on the psycho-social foundations of neglect. DiLeonardi (''Families in Poverty and Chronic Neglect of Children,'' November 1993, Families in Society, Vol. 74, No. 9, pp. 557–562), reported that ''family empowerment, the use of groups to develop social support networks, and the assistance of volunteers or paraprofessionals as home visitors or parent aides, appear to be beneficial'' to families reported for neglect. The study concluded that families were able to reverse their neglectful child-rearing patterns with this model of service. DePanfilis (''Social Isolation of Neglectful Families: A Review of Social Support, Assessment and Intervention Models,'' February 1993, Child Maltreatment, Vol. 1, Issue 1, pp. 37–52) also has suggested that programs that address the social isolation of neglectful parents by teaching them social and interactional skills work well.

Gaudin, et al., also found that family dynamics explains a significant portion of the variance in quality of parenting and neglect. Depression and substance abuse, for example, have been suggested as powerful forces in family dynamics and mediators of neglect.

Recent work by the Kansas Cooperative Extension Service (Smith, C.A., Cudaback, D., Goddard, H.W., & Myers-Walls, J., 1994, National Extension Parent Education Model) may provide a useful guide for designing the parent education component of a comprehensive psycho-social model. Parent education can help parents in many ways including: learning to care for themselves, managing personal stress, managing family resources; providing children with developmentally appropriate opportunities and learning appropriate disciplinary techniques; maintaining developmentally appropriate expectations of children; improving communication skills, building social support systems; and learning to access community, social service, and family support resources.

Structurally, these projects are intended to function cooperatively as a cluster. NCCAN proposes funding a minimum of four demonstration projects on neglect. Participation in a cluster affords the grantees the greatest opportunities to cooperate and collaborate. NCCAN will assist this cooperation by providing assistance through a technical assistance contract, encouraging meetings to develop common evaluation criteria, data elements, and measures to maximize comparability of evaluation findings. Evaluations will be required of each demonstration project. Priority will be give to those who provide evidence of partnership between CPS/IV-B agencies which provide Family Preservation/Family Support services and community-based mental health/family resource centers.

NCCAN is especially interested in examinations of core services and studies of essential elements in treatment, and outcome studies. Projects which address issues related to family preservation and family support are encouraged as are demonstrations related to treatment outcomes and practitioner evaluations.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives and Need for Assistance

- Pinpoint the child neglect-related problem or issue that needs to be addressed and establish the need for assistance; state the principal and subordinate objectives of the project. State goals and objectives in specific, measurable form for evaluation purposes.
- Identify the conceptual framework used as the basis for the proposed model and provide a review of the relevant literature; include information about similar successful demonstration projects that may have implications for the proposed demonstration; and provide supporting documentation or other testimonies from concerned interests other than the applicant.
- Demonstrate an awareness of current initiatives in the field and how the approach being proposed would build on this work.
- Describe whether the proposed project replicates or modifies a previously-evaluated model which addresses the identified need.
- Identify the precise location of the project, community, and population to be served by the proposed project.

Approach

- Describe the approach in detail and point out its unique features including sensitivity to cultural, sociological, psychological, and ethnic dynamics which have affected the choice of approach.
- Describe a sound and workable plan of action and time-line which match the scope of the project and explain how the proposed work will be accomplished.
- Cite factors which might accelerate or delay this approach, giving acceptable reasons for taking this approach as opposed to others.
- Include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describe the responsibilities, activities, and/or

training plans for each (if applicable). If the proposed project is a collaboration, the application must describe the nature and extent of the collaboration and the responsibilities of the respective agencies in carrying out the activities identified in the work-plan.

- Propose an evaluation plan. Discuss the methods and criteria to be used to evaluate the process, outcomes, or impacts of the project in terms of the objectives of the project. Identify the kinds of data to be collected and maintained for this purpose. An external evaluator may be hired or an internal evaluation may be designed. It is recommended that approximately 15 percent of the proposed budget be set aside for evaluation efforts.

Results or Benefits Expected

- Identify the results and benefits to be derived by clients, community, agency, and NCCAN as a result of the implementation and evaluation of this project. Discuss how project findings are likely to improve practice and inform policy related to neglectful families.
- Justify proposed project costs in view of the expected results.
- Describe strategies for disseminating findings to other practitioners in the field.

Staff Background and Organization Experience

- Identify the educational and professional background of the project director and key project staff.
- Describe the organization's ability to administer and implement the project effectively and efficiently.
- Identify precisely the role of the author(s) of this proposal in relation to the work plan and administrative structure.
- Describe the relationships between the proposed project and other Federally assisted work planned, anticipated, or underway by the applicant.
- Provide assurances that at least one key staff person will attend an annual three-day meeting in Washington, DC.
- Grant recipients will be expected to follow an NCCAN-suggested format in preparing final program reports and copies of final reports and other products shall be provided to the Clearinghouse.

Project Duration: The length of the project must not exceed a five-year period.

Federal Share of Project Cost: The maximum Federal share of this project is not to exceed $150,000 for the first 12-month budget period or a maximum of $750,000 for a period of five years. Funding for subsequent years may exceed the amount specified above for the first budget period based on a comprehensive needs assessment submitted by the grantee and the availability of funds.

Matching Requirement: Grantees must provide a non-Federal share or match of at least 25 percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a five-year project requesting $750,000 in Federal funds (based on an award of $150,000 per 12-month budget period) must include a match of at least $187,500 ($37,500 per budget period).

Anticipated Number of Projects To Be Funded: It is anticipated that a minimum of four projects will be funded.

2.02 National Resource Center on Child Maltreatment

Eligible Applicants: Any State, local, public or private non-profit agency or organization, including accredited colleges and universities, may apply under this announcement. Applications developed jointly by State, local, and community-based social service agencies, foundations, colleges or universities and private non-profit organizations that bring complementary expertise to bear on the resource needs of the child maltreatment field are encouraged.

Purpose: The primary purpose of the National Resource Center on Child Maltreatment (NRCCM) is to deliver direct, on-site, as well as state-of-the-art communication, technology-based training, technical assistance, consultation, and related resource materials and information to State, local, Tribal, and other publicly-administered or supported agencies and organizations that work in child maltreatment prevention, identification and treatment services, (e.g., Child Protective Service agencies, Children's Justice Act grantees, Prevention grantees, and Tribal agencies and Organizations) to build their capacity for developing, expanding, strengthening and/or improving the quality and effectiveness of such services for child victims of maltreatment and their families. A second purpose of the NRCCM is to engage in ancillary activities which support the delivery of training and technical assistance to the field, and to provide advice, consultation, materials and information, as requested, to private organizations and agencies, including disability organizations, and individuals engaged in child maltreatment prevention, identification, and treatment services.

The NRCCM will have a central role helping States, local agencies and Tribes to improve and strengthen child maltreatment prevention, identification, and treatment services for children and their families. This will be accomplished by collaborating and coordinating with related Administration on Children, Youth and Family (ACYF) funded Resource Centers, Training and Technical Assistance Networks, contractors, and Clearinghouses, especially with those funded by the National Center on Child Abuse and Neglect (NCCAN), Children's Bureau (CB), and the Family and Youth Services Bureau (FYSB). The NRCCM must possess the expertise, knowledge and skill to provide quality training, technical assistance, consultation, and appropriate materials and information to relevant target audiences, both public and private.

Specific training, technical assistance, consultation and related material and information needs of publicly-administered or supported child maltreatment prevention, identification and treatment service agencies will be identified in consultation with NCCAN Central Office staff, the ten ACYF Regional Offices, the State agency staff, and plans for meeting those needs will be coordinated with representatives of NCCAN, CB and FYSB funded Resource Centers, Training and Technical Assistance Networks, contractors, and clearinghouses. Similarly, the need for ancillary activities to support delivery of training and technical assistance, consultation, advice, materials and information for private organizations and agencies, including disability organizations, and individuals who work in the field of child maltreatment, will be identified in consultation with the relevant organizations, agencies and/or individuals.

Background Information: Section 105(b)C of the Child Abuse Prevention and Treatment Act (CAPTA), as amended, requires NCCAN to provide technical assistance to public and private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing and carrying out programs and activities related to the prevention, identification, and treatment of child abuse and neglect.

Section 106(b) of CAPTA, as amended, requires Resource Centers to be established that serve defined geographic areas; that are staffed by multi-disciplinary teams trained in the

prevention, identification and treatment of child abuse and neglect and that provide advice and consultation to individuals, agencies and organizations requesting such services.

To carry out this CAPTA mandate, in Fiscal Year 1991, NCCAN supported a National Resource Center on Child Sexual Abuse, operated by the National Children's Advocacy Center, Huntsville, Alabama, and a National Resource Center on Child Abuse and Neglect, specializing in physical abuse and neglect, operated by the American Humane Association, Denver, Colorado. These Centers were funded through five-year cooperative agreements starting September 30, 1991 and ending on September 29, 1996. The functions of these resource centers were broadly defined. The major activities under each of these resource centers have been in the areas of knowledge-building, dissemination of information, and consultation. The Centers also conducted a limited amount of training and technical assistance activities.

To comply with the CAPTA mandate on a continuous basis starting with Fiscal Year 1996, NCCAN seeks to support a minimum of one but not more than two National Resource Center(s) on Child Maltreatment (NRCCM) through a cooperative agreement(s). This NRCCM is expected to have qualified, multi-disciplinary personnel trained in prevention, identification, and treatment in the whole spectrum of child maltreatment—child neglect, physical abuse, psychological maltreatment, and sexual abuse—adequate resources, organizational, professional, and educational capability and the expertise to carry out the intent of this announcement.

The decision to fund a minimum of one but not more than two resource centers starting with Fiscal Year 1996, reorienting the focus of the center(s) to training, technical assistance, consultation, and delivering related materials and information, across the whole spectrum of child maltreatment, is made after taking into consideration several factors. They include: the lessons learned from the operation of two specialized resource centers during the past five years; funding limitations; the need to avoid duplication of effort; the need to maximize the use of Federal dollars and its benefits for the field; the requirement of field staff to deal with clients who often are victims of multiple types of abuse; current trends; and a critical need to develop training and technical assistance that will address specific State needs.

NCANDS is the primary source of national information on abused and neglected children known to State child protective services agencies. Child Maltreatment 1994 discusses NCANDS findings from 1994 data and presents the overall child abuse and neglect data for the five years of data collection, 1990 through 1994. According to this report, in 1994, 48 States reported that 1,011,628 children were determined to have been victims of abuse and neglect, and State child protective services agencies received reports of alleged maltreatment involving more than 2.9 million children. The report found that 53 percent of maltreated children suffered neglect, 26 percent physical abuse, 14 percent sexual abuse, and 5 percent emotional abuse, and 22 percent other forms of maltreatment. The loss of life is the most severe repercussion of child abuse and neglect. Forty-three States reported that 1,111 children died as a result of abuse in 1994.

The number of children who were the subjects of reports of alleged maltreatment increased from 2.6 million in 1990 to 2.9 million in 1994. The number of ''substantiated'' or ''indicated'' victims of maltreatment increased almost 27 percent from 1990 to 1994. Characteristics of victims were consistent across the years. In each of the five years, neglect was the predominant type of maltreatment. The number of neglect victims was consistently more than two times the number of physical abuse, the next most common type of maltreatment. Almost all of the victims were 8 years of age or younger; though a surprising 25 percent were twelve years of age and older. Fifty-two percent of all victims were female and 46 percent were males. Child protective services agencies identified almost 5,400 children who died as result of abuse or neglect from 1990 through 1994.

Other recent studies using different reporting methodologies have estimated that many more children are being abused than are ultimately verified by States. For example, preliminary results from the Third National Incidence Study of Child Abuse and Neglect (NIS–3) estimate that almost three times the State-reported number of children are maltreated.

In this context, the Federal government is redefining its relationship with States and other child welfare agencies. The new partnership being forged is based upon the vision wherein all concerned agencies collaborate and cooperate to provide a continuum of services to meet the needs of the increasing number of maltreated children and their families. This comes at a time when steady increase in caseloads, consisting of much more complex, multiple problem cases, are confronting child maltreatment prevention, identification, and treatment service programs. Throughout the country child maltreatment service agencies, practitioners, and university-based personnel now are demonstrating resiliency and creativity in response to these circumstances. Skilled child maltreatment service professionals are devising innovative solutions to numerous challenges, more often than not, in the face of insufficient human, material, and financial resources.

To meet the challenges of the current period, and overcome existing resource deficiencies, capacity-building is needed by State, local, Tribal and other private agencies, organizations as well as individuals who are engaged in the prevention, identification and treatment of child maltreatment. NRCCM is vital to making the most of this opportunity with training and technical assistance, consultation, advice and provision of related resource materials and information. Support for this newly conceptualized NRCCM reflects NCCAN's commitment to enhance the continuum of services for maltreated children and their families.

The term 'child maltreatment' in this priority announcement is broadly defined to include child neglect, physical abuse, psychological maltreatment, medical neglect, and sexual abuse.

'Cooperative agreement' in this announcement refers to Federal assistance in which substantial Federal involvement is anticipated.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives and Need for Assistance

- Describe the training, technical assistance, consultation, and related materials and information needs of publicly supported/administered agencies and organizations engaged in child maltreatment prevention, identification, and treatment. Identify the auxiliary activities needed to support training, technical assistance, consultation to the field, and related materials and information needs for private organizations and agencies engaged in child maltreatment prevention, identification, and treatment.
- Demonstrate awareness of training and technical assistance initiatives currently underway at State and national levels. Describe how the

proposal does not duplicate existing efforts.

- State the primary and secondary objectives of the proposed resource center in specific measurable terms.

Approach

- Describe the proposed activities in detail; point out the scope and unique features.
- List the type of training, technical assistance, consultation, advice, and related material and information needs to be provided.
- Provide a plan for delivering training, technical assistance, consultation, materials and information in response to the identified needs, from year one through year five (a minimum of one training and/or technical assistance activity in at least one of the States in each of the ten ACYF regions is expected during the first year; subsequent year's activities will be phased in) and specify the delivery mode (e.g., principally on-site and in combination with the use of state-of-the-art communications technology). Include a time-line for the activities. Cite factors which might accelerate or delay this, giving acceptable reasons for addressing these factors.
- Include a staffing plan for each activity, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describe the qualifications, responsibilities and activities for each person.
- Applications developed jointly by two or more organizations must identify a single lead agency to be the primary administrator of the NRCCM and the official recipient of the award; the other applicant may be named as co-applicant. Joint applications must delineate methods for coordinating activities and each organization's responsibilities and contributions to completing the tasks identified in the work plan.
- Present strategies for obtaining input from the ten ACYF regional offices, NCCAN central office, the State and local agencies themselves.
- Describe a plan for coordinating and establishing effective linkages and collaborative working relationships with relevant programs and other training and technical assistance providers funded by Federal agencies. Specifically, NRCCM is expected to establish effective linkages and appropriate coordination with the Community Based Family Resource Program, NCCAN Emergency Services Technical Service Contractor, seven resource centers funded by the Children's Bureau, the three statewide Family Resource and Support model projects initially funded by the Family and Youth Services Bureau (FYSB), and the Technical Assistance Resource Coordination contract funded by the Children's Bureau to assure effective utilization of resources and to avoid duplication of efforts.
- Describe a plan for utilizing Federal funds and matching contributions to meet requests for on-site training, technical assistance, consultation, materials, etc., from public agencies. Since the Resource Center will have considerable, but finite, Federal funds, applicants must present strategies for prioritizing requests and maximizing available financial resources, including techniques such as, but not limited to, subsidized cost-sharing arrangements with the service recipient State, local, and Tribal agencies and/or organizations. Justify the proposed costs.
- Describe how on-going requests for consultation and advice, and requests for training, technical assistance, related materials and information from the private agencies, organizations, and individuals will be handled, including techniques such as subsidized cost-sharing. Justify the proposed costs.
- Describe a plan to ensure that the services and program activities of the Resource Center respond to cultural issues, ethnically and culturally sensitive activities are furnished to the populations being served, and the Resource Center staff is ethnically and culturally diverse, and reflective of the populations being served.
- Describe a plan to continually develop a national pool of professionals in the field to serve as consultants and to link these individuals with agencies, organizations, and individuals requesting assistance.
- Provide a plan for the NRCCM's own evaluation of the quality of its training, technical assistance, consultation, and provision of related materials and information, including plans for eliciting consumer input. Discuss the methods and criteria to be used to evaluate the process, outcomes, and impacts of the NRCCM. Identify the kinds of data to be collected and maintained for the internal evaluations. This data must also be made available to an independent external evaluator, selected and funded by NCCAN.

Results or Benefits Expected

- Identify the results and benefits to be derived from the project in terms of the objectives of the proposal and as assessed by the evaluation.
- Justify the proposed project costs in view of the expected benefits and results.

Staff Background and Organization Experience

- Describe the full-time and part-time staff, as well as project consultants, if any, with specific expertise, including educational qualifications, training, experience and discipline of each.
- Identify precisely the role of the author(s) of this proposal in relation to the work plan and administrative structure.
- Demonstrate the organization's ability to administer and implement the project effectively and efficiently.
- Describe the organization's orientation to training and technical assistance and any conceptual frameworks to be used in designing and delivering training and technical assistance (e.g., multi-disciplinary, inter-agency, cross-program, comprehensive, collaborative).
- Document a commitment to and experience in providing training, technical assistance, consultation, and related materials and information, to agencies and organizations, both public and private, as well as to individuals engaged in prevention, identification and treatment of child maltreatment among economically, racially, and culturally diverse population, including organizations and individuals who serve maltreated children with disabilities and their families.
- Describe the administrative and organizational structure and the management plan for the project. An organizational chart depicting these structures must be included.
- Describe the relationships between the proposed project and other Federally assisted work planned, anticipated, or underway by the applicant.
- Provide assurance that the NRCCM will cooperate with a third-party evaluator which will evaluate the operation of the center, its outreach, and outcomes over the first two-year period and agree to the principle that further funding will depend on the evaluation findings. This evaluation will be funded by NCCAN under a separate contract.
- Provide assurances that two key staff persons would attend two annual 1 or 2 day meetings in Washington, D.C. for the project directors of Resource and Research Centers and Clearinghouses organized by the Children's Bureau.
- Provide assurances that at least two key staff members will attend up to six meetings in Washington during the first year for periodic review of the work plan and/or attend various NCCAN-

sponsored grantee meetings. This includes an initial meeting in Washington, D.C. with the Federal Project Officer and other NCCAN management representative(s) within 30 days of the award.

- Provide assurance that in situations where the applicant's organizational position on a particular child maltreatment-related policy or practice differs from the Federal position, the Federal position will guide NRCCM activity and will be reflected in all public statements and publications of the NRCCM.
- Agree to enter into a Cooperative Agreement which will require NCCAN review and approval of work plans, including activities involving Headquarters and Regional Office staff, topics to be covered in training (training curricula, trainers manual, hand-outs), issues for technical assistance, topics for consultation, location and frequency of training and technical assistance activities, modes of training and technical assistance, any subcontracts and their work plans and budgets, and other materials prior to finalization by the grantee.
- Agree to work out the terms of the Cooperative Agreement and the respective responsibilities of the Federal staff and the project staff prior to the actual award.

Project Duration: The length of the project must not exceed 60 months.

Federal Share of the Project Costs: The maximum Federal share of the project is not to exceed $700,000 for the first 12 months. Funding for subsequent years of the project may exceed the amount specified above for the first budget period based on a comprehensive needs assessment submitted by the grantee and the availability of funds.

Matching Requirement: Grantees must provide a non-Federal share or match of at least 25 percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a one-year project requesting $700,000 in Federal funds must include a match of at least $175,000.

Anticipated Number of Projects: It is anticipated that a minimum of one but no more than two projects will be funded.

Part III—Instructions for the Development and Submission of Applications

This part contains information and instructions for submitting applications in response to this announcement. Application forms are provided along with a checklist for assembling an application package. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information in the specific priority area under which the application is to be submitted. The priority area descriptions are in Part II.

A. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Department is required to submit to OMB for review and approval any reporting and record keeping requirements or program announcements. This program announcement meets all information collection requirements approved for ACF grant applications under OMB Control Number 0970–0139.

B. Availability of Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms at the end of this program announcement in Appendix B. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by the Office of Management and Budget under Control Number 0348–0043). A copy has been provided. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs'' (approved by the Office of Management and Budget under control number 0348–0040). Applicants must sign and return the Standard Form 424B (approved by the Office of Management and Budget under Control Number 0348–0340) with their application. Applicants must provide a certification regarding lobbying (approved by the Office of Management and Budget under Control Number 0348–0046). Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants will be held accountable for the smoking prohibition in Pub. L. 103–227, Part C Environmental Tobacco Smoke (also known as the Pro-Children's Act of 1994). A copy of the Federal Register notice which implements the smoking prohibition is included with the forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

All applicants for research projects must provide a Protection of Human Subjects Assurance as specified in the policy described on the HHS Form 596 (approved by the Office of Management and Budget under control number 0925–0137) in Appendix B. If there is a question regarding the applicability of this assurance, contact the Office of Protection from Research Risks of the National Institutes of Health at (301)-496–7041. Those applying for or currently conducting research projects are further advised of the availability of a Certificate of Confidentiality through the National Institute of Mental Health of the Department of Health and Human Services. To obtain more information and to apply for a Certificate of Confidentiality, contact the Division of Extramural Activities of the National Institute of Mental Health at (301) 443–4673.

C. Required Notification of the State Single Point of Contact

The discretionary funds awarded by NCCAN are covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR Part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of February, 1996, the following jurisdictions have elected not to participate in the Executive Order process: Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee,

Virginia, Washington, American Samoa, Palau. Applicants from these jurisdictions or for projects administered by Federally recognized Indian Tribes need take no action in regard to E.O. 12372.

All remaining jurisdictions participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged not to submit routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between advisory comments and official State process recommendations which may trigger the ''accommodate or explain'' rule.

Comments submitted directly to ACF should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade SW., Mail Stop 6C–462, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Appendix A of this announcement.

D. Deadline for Submission of Applications

The closing time and date for receipt of applications is 4:30 p.m. (Eastern time) on August 16, 1996. Applications received after 4:30 p.m. will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade S.W., Mail Stop 6C–462, Washington, DC 20447, Attention: _____ (Reference Announcement Number and specify Priority Area 1.01, 2.01, or 2.02.) Applicants are responsible for mailing applications well in advance, when using the mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand-carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m. (Eastern time) at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024 between Monday and Friday (excluding Federal Holidays). Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

ACF cannot accommodate transmission of applications by fax. Therefore, applications faxed to ACF will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications which do not meet the criteria stated above are considered late applications. Each late applicant will be notified that its application will not be considered in the current competition.

Extension of Deadlines: The deadline may be extended for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mail. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

E. Instructions for Preparing the Application and Completing Application Forms

The SF 424, 424A (approved by the Office of Management and Budget under Control Number 0348–0044), 424B, and certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the Federal Register announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet. Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted under only one priority area.

Item 1. Type of submission—Preprinted on the form.

Item 2. Date Submitted and Applicant Identifier—Date application is submitted to ACYF and applicant's own internal control number, if applicable.

Item 3. Date Received By State—State use only (if applicable).

Item 4. Date Received by Federal Agency—Leave blank.

Item 5. Applicant Information Legal Name—Enter the legal name of the applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

Organizational Unit—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

Address—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

Name and telephone number of the person to be contacted on matters involving this application (include area code)—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. Employer Identification Number (EIN)—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. Type of Applicant—Self-explanatory.

Item 8. Type of Application—Preprinted on the form.

Item 9. Name of Federal Agency—Preprinted on the form.

Item 10. Catalog of Federal Domestic Assistance Number and Title—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title, as indicated in the relevant priority area description.

Item 11. Descriptive Title of Applicant's Project—Enter the project title. The title is generally short and is

descriptive of the project, not the priority area title.

Item 12. Areas Affected by Project—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. Proposed Project—Enter the desired start date for the project and projected completion date.

Item 14. Congressional District of Applicant/Project—Enter the number of the Congressional District where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If statewide, a multi-State effort, or nationwide, enter 00.

Items 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 12-month budget period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or matching funds. The value of third party in-kind contributions should be included on appropriate lines as applicable.

Item 15f. Enter the estimated amount of income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. Is Application Subject to Review By State Executive Order 12372 Process? Yes, except for the 18 jurisdictions listed above.—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part III. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application. If there is a discrepancy in dates, the SPOC may request that the Federal agency delay any proposed funding until September 1994.

Item 16b. Is Application Subject to Review By State Executive Order 12372 process? No.—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. Is the Applicant Delinquent on any Federal Debt?— Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. Typed Name of Authorized Representative, Title, Telephone Number—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. Signature of Authorized Representative—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. Date Signed—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs. This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering the first year budget period.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers the first year budget period if the proposed project period exceeds 12 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal dollars in one column and non-Federal in the other) by object class category.

A separate, itemized, budget justification for each line item is required. The types of information to be included in the justification are indicated under each category. For multiple-year projects, it is desirable to provide this information for each year of the project.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, Other.

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total cost of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, Other.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. Equipment is defined as non-expendable tangible personal property having a useful life of more than one year and a acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, other.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements. Applicants who anticipate procurement that will exceed $5,000 (non-governmental entities) or $25,000 (governmental entities) and are requesting an award without competition should include a sole-source justification in the proposal which at a minimum should include the basis for contractor's selection, justification for lack of competition when competitive bids or offers are not obtained and basis for award cost or price. (Note: Previous or past experience with a contractor is not sufficient justification for sole source.)

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance, medical and dental costs, noncontractual fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs, including wage payments to individuals and supportive service payments, and staff development costs. Note that costs identified as miscellaneous and honoraria are not allowable.

Justification: Specify the costs included.

Total Direct Charge—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter none. Generally, this line should be used when the applicant has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with DHHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

Justification: Enclose a copy of the indirect cost rate agreement.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled Totals. In-kind contributions are defined in 45 CFR, Part 74.51 and 45 CFR Part 92.3, as property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs, Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 12 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column (b) First. If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under (c) Second. Columns (d) and (e) would be used in the case of a 60 month project.

Section F—Other Budget Information.

Direct Charges—Line 21, Not applicable.

Indirect Charges—Line 22, Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 12 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description. Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos. (Please note that audiovisuals should be closed captioned.) The project summary description, together with the information on the SF 424, will constitute the project abstract. It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

At the bottom of the page, following the summary description, type up to 10 key words which best describe the proposed project, the service(s) involved and the target population(s) to be covered. These key words will be used for computerized information retrieval for specific types of funded projects.

4. Program Narrative Statement. The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II.

The narrative should provide information concerning how the application meets the evaluation criteria using the following headings for Research applications:

(a) Objectives
(b) Background and Significance
(c) Methodology
(d) Staff Background and Organizational Experience

All demonstration applications should use the following headings:

(a) Objective and Need for Assistance
(b) Approach
(c) Results or Benefits Expected
(d) Staff Background and Organization Experience

The narrative should be typed double-spaced on a single-side of an 8½″ × 11″ plain white paper, with 1″ margins on all sides, using standard type sizes or fonts (e.g., Times Roman 12 or Courier 10). Applicants should not submit reproductions of larger size paper reduced to meet the size requirement. Applicants are requested not to send pamphlets, brochures, or other printed material along with their application as they pose copying difficulties. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives'' or ''Objectives and Need for Assistance'' as page number one.

The length of the application, including the application forms and all attachments, should not exceed 60 pages, except for applications for priority area 1.01 which has different page limits as described in that section of the announcement. Anything over the limit will not be reproduced and distributed to reviewers. Applicants should understand that, except for priority area 1.01, only the first 60 pages of material will be reviewed. A page is a single side of an 8½ × 11″ sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the page limit criteria. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement. The Organizational Capability Statement should consist of a brief (two pages is suggested) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

6. Part IV—Assurances/Certifications. Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-free Workplace Requirements; and (2) Debarment and Other Responsibilities. Copies of the assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug-free Workplace Requirements, and Debarment and Other Responsibilities certifications.

A signature on the application constitutes an assurance that the applicant will comply with the pertinent Departmental regulations contained in 45 CFR Part 74.

F. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;
—Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);
—Application length does not exceed 60 pages, unless otherwise specified in the priority area description. A complete application consists of the following items in this order:
—Application for Federal Assistance (SF 424, REV 4–88);
—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424;
—Budget Information-Non-Construction Programs (SF 424A, REV 4–88);
—Budget justification for Section B—Budget Categories;
—Table of Contents;
—Letter from the Internal Revenue Service to prove non-profit status, if necessary;
—Copy of the applicant's approved indirect cost rate agreement, if appropriate;
—Project summary description and listing of key words;
—Program Narrative Statement (See Part III, Section D);
—Organizational capability statement, including an organization chart;
—Any appendices/attachments;
—Assurances-Non-Construction Programs (Standard Form 424B, REV 4–88);
—Certification Regarding Lobbying; and
—Certification of Protection of Human Subjects, if necessary.

G. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Do not include a self-addressed, stamped acknowledgement card. All applicants will be notified automatically about the receipt of their application. If acknowledgement of receipt of your application is not received within eight weeks after the deadline date, please notify the ACYF Operations Center by telephone at 1–800–351–2293.

Dated: June 7, 1996.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

Appendix A—OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, Alabama 36103–5690, Telephone: (205) 242–5483, FAX: (205) 242–5515

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Barbara Beard, State Single Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone: (217) 782–1671, FAX: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Jersey

Gregory W. Adkins, Assistant Commissioner, New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to:

Andrew J. Jaskolka, State Review Process, Intergovernmental Review Unit CN 800, Room 813A, Trenton, New Jersey 08625–0800, Telephone: (609) 292–9025, FAX: (609) 633–2132

New Mexico

Robert Peters, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0385

Texas

Tom Adams, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, Stater Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, FAX: (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, FAX: (307) 638–8967

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444, (809) 723–6190, FAX: (809) 724–3270, (809) 724–3103

North Marianna Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Marianna Islands 96950

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to:

Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

BILLING CODE 4184–01–P

Appendix B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	*Preapplication*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐.☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplication and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. **TOTALS** (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. **Federal**	$	$	$	$	$
14. **NonFederal**					
15. **TOTAL** (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. **TOTALS** (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. **Direct Charges:**	22. **Indirect Charges:**

23. **Remarks**

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column

Line 6i—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants for total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will

establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–5108 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of authorized certifying official

_____

Title

_____

Applicant organization

_____

Date submitted

Appendix C—U.S. Department of Health and Human Services, Certification Regarding Drug-Free Workplace Requirements, Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

''Controlled substance'' means a controlled substance in Schedules I through V of the

Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 1308.11 through 1308.15).

''Conviction'' means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

''Criminal drug statute'' means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

''Employee'' means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All ''direct charge'' employees; (ii) all ''indirect charge'' employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed);

_____

_____

Place of Performance (Street address, City, County, State, ZIP Code)

Check _____ if there are workplace on file that are not identified here.

Sections 76.630 (c) and (d)(2) and 76.635 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification or criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Appendix D—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State of local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction.'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above , such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Appendix E—Certification Regarding Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or here knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District,** *if known*:	 **Congressional District,** *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184–01–C

Appendix F—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

[FR Doc. 96–15156 Filed 6–14–96; 8:45 am]

BILLING CODE 4184–01–P

Federal Register

Monday
June 17, 1996

Part VI

Department of Defense

Department of the Army
Corps of Engineers

Proposal To Issue, Reissue, and Modify Nationwide Permits; Public Hearing; Notice

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Proposal To Issue, Reissue, and Modify Nationwide Permits; Public Hearing

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of public hearing.

SUMMARY: Today, the Corps has published a Notice document containing its proposal to reissue the existing nationwide permits (NWPs) and conditions, with some modifications, and issue four new NWPs. The Corps will hold a public hearing on the nationwide permits contained in that proposal. The hearing is open to the public. Comments may be submitted in person at the hearing or in writing to the Office of the Chief of Engineers at the address given below. Filing of a written statement at the time of giving an oral statement would be helpful and facilitate the job of the court reporter. The hearing will be transcribed. Persons wishing to testify are requested to limit their statements to 15 minutes. The hearing will be held in accordance with the Corps public hearing regulations in 33 CFR part 327. The legal authority for this hearing is Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). The hearing record will remain open until August 1, 1996.

DATES: The hearing will commence at 10:00 AM on July 17, 1996, and end at 4:00 PM or before, if all speakers present have had an opportunity to speak.

ADDRESSES: The hearing will be held at the National Guard Association Building, One Massachusetts Ave, NW, Washington, DC. Written comments may be submitted to HQUSACE, ATTN: CECW–OR, Washington, DC, 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Zimmerman or Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 761–0199.

Dated: June 6, 1996.

Approved:

Stanley G. Genega,

Major General, U.S. Army, Director of Civil Works.

[FR Doc. 96–15225 Filed 6–14–96; 8:45 am]

BILLING CODE 3710–92–P

Federal Register

Monday
June 17, 1996

Part VII

Department of Defense

Department of the Army
Corps of Engineers

Nationwide Permits: Issuance, Reissuance, and Modification; Public Hearings; Notice

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Proposal To Issue, Reissue, and Modify Nationwide Permits; Public Hearing

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent and request for comments.

SUMMARY: The Corps of Engineers is proposing to reissue the existing nationwide permits (NWPs) and conditions, with some modifications, and issue four new NWPs. We are also proposing options for the threshold limits for NWP 26.

The public is invited to provide comments on these proposals and is being given the opportunity to request public hearings on the NWPs. The Corps of Engineers will hold a public hearing at the National Guard Association Building, at One Massachusetts Ave, NW, Washington, DC on July 17, 1996, at 10:00 AM and end at 4:00 PM or before, if all speakers present have had an opportunity to speak. This hearing is opened to the public. Comments may be submitted in person at the hearing or in writing to the Office of the Chief of Engineers at the address given below. The hearing record will remain open until August 1, 1996. The legal authority for this hearing is section 404 of the Clean Water Act (33 U.S.C. 1344) and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

DATES: Comments must be received by August 16, 1996.

ADDRESSES: National comments should be submitted in writing to: Office of the Chief of Engineers, ATTN: CECW–OR, 20 Massachusetts Avenue NW, Washington, DC 20314–1000. Regional comments should be sent to the appropriate Corps District offices at the addresses listed below. Comments will be available for examination at the Office of the Chief of Engineers, Room 6225, Pulaski Building, 20 Massachusetts Avenue NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Zimmerman or Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 761–0199.

SUPPLEMENTARY INFORMATION:

Background

The White House Office on Environmental Policy announced the President's Wetlands Plan on August 24, 1993. The plan sets forth a comprehensive package of improvements to the Federal wetlands protection programs. A major goal of the plan is that the programs be fair, flexible, and effective. To achieve this goal, the Corps regulatory program must continue to provide effective protection for wetlands and other aquatic resources, while conveying to the public a clear understanding of regulatory requirements. In its implementation, the regulatory program must be administratively efficient, flexible yet predictable, and avoid unnecessary impacts to private property, the regulated public, and the environment.

There are 37 existing nationwide permits. Thirty-six of the NWPs were published in the November 22, 1991, Federal Register at 33 CFR Part 330, Appendix A. They became effective on January 21, 1992, and expire on January 21, 1997. One additional NWP, the Single-Family Housing NWP (NWP 29), was published in the Federal Register on July 27, 1995, and became effective on September 25, 1995. NWP 29 will expire on September 25, 2000.

In the preamble of the Final Rule at 33 CFR Part 330 as published in the Federal Register (56 FR 59110) on November 22, 1991, we indicated that upon expiration of the existing NWPs, we would issue the NWPs separately from the regulations governing their use and rescind 33 CFR Part 330, Appendix A. The NWPs will now be published using the procedures adopted in November 22, 1991, for issuance, reissuance, modification, and revocation of NWPs (see 33 CFR 330.5). The NWPs will no longer appear in the Code of Federal Regulations but will be published in the Federal Register and announced, with regional conditions, in the public notices issued by Corps district offices.

We are proposing to reissue all the existing NWPs. We are also proposing to modify several existing NWPs and several NWP conditions as published in the Federal Register (56 FR 59110–47) on November 22, 1991 to clarify activities that are authorized by NWPs and those that are not. Several of the proposed clarifications are a result of the modification of the definition of discharge of dredged material at 33 CFR Part 323.2(d) as published in the Federal Register (58 FR 45008–38) on August 25, 1993 (i.e., the excavation rule). The definition was revised to clarify that certain excavation activities are regulated and included the following language: ''(iii) Any addition, including any redeposit, of dredged material, including excavated material, into waters of the United States which is incidental to any activity, including mechanized landclearing, ditching, channelization, or other excavation.'' (See 33 CFR 323.(d) for the complete definition of discharge of dredged material).

We are also proposing, in accordance with the President's Wetlands Plan, four new NWPs to authorize those additional regulated activities with minimal effects that resulted from the excavation rule. These new NWPs include: A. Moist Soil Management for Wildlife; B. Food Security Act Minimal Effect Exemptions; C. Minor Mining Activities; and D. Maintenance of Existing Flood Control Projects.

The Corps believes, that when these changes are considered as a whole, the average approval time for projects requiring a Department of the Army permit will not change. However, the individual approval time for some projects will be longer while others will be shorter. In addition, we believe that the approval time for a vast majority of nationwide permits will not be affected by these changes.

Regional Conditioning of Nationwide Permits

Concurrent with this Federal Register notice, District Engineers are issuing local public notices. In addition to the changes to NWP conditions being proposed by the Chief of Engineers, the Division and District Engineers may propose regional conditions or propose revocation of NWP authorization for all or some or portions of the NWPs. Regional conditions may also be required by state Section 401 water quality certification or for state coastal zone consistency. Comments on regional issues and regional conditions should be sent to the appropriate District Engineer as indicated below.

ALABAMA
Mobile District Engineer, ATTN: CESAM–OP–S, P.O. Box 2288, Mobile, AL 36628–0001

ALASKA
Alaska District Engineer, ATTN: CENPA–CO–R, P.O. Box 898, Anchorage, AK 99506–0898

ARIZONA
Los Angeles District Engineer, ATTN: CESPL–CO–R, P.O. Box 2711, Los Angeles, CA 90053–2325

ARKANSAS
Little Rock District Engineer, ATTN: CESWL–CO–R, P.O. Box 867, Little Rock, AR 72203–0867

CALIFORNIA
Sacramento District Engineer, ATTN: CESPK–CO–O, 1325 J Street, Sacramento, CA 95814–4794

COLORADO
Albuquerque District Engineer, ATTN: CESWA–CO–R, 4101 Jefferson Plaza NE, Rm 313, Albuquerque, NM 87109–3435

CONNECTICUT

New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149
DELAWARE
Philadelphia District Engineer, ATTN: CENAP–OP–R, Wannamaker Building, 100 Penn Square, East Philadelphia, PA 19107–3390
FLORIDA
Jacksonville District Engineer, ATTN: CESAJ–RD, P.O. Box 4970, Jacksonville, FL 32232–0019
GEORGIA
Savannah District Engineer, ATTN: CESAS–OP–F, P.O. Box 889, Savannah, GA 31402–0889
HAWAII
Honolulu District Engineer, ATTN: CEPOD–ET–PO, Building 230, Fort Shafter, Honolulu, HI 96858–5440
IDAHO
Walla Walla District Engineer, ATTN: CENPW–OP–RF, Building 602, City-County Airport, Walla Walla, WA 99362–9265
ILLINOIS
Rock Island District Engineer, ATTN: CENCR–OD–S, P.O. Box 2004, Rock Island, IL 61201–2004
INDIANA
Louisville District Engineer, ATTN: CEORL–OR–F, P.O. Box 59, Louisville, KY 40201–0059
IOWA
Rock Island District Engineer, ATTN: CENCR–OD–S, P.O. Box 2204, Rock Island, IL 61201–2004
KANSAS
Kansas City District Engineer, ATTN: CEMRK–OD–P, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896
KENTUCKY
Louisville District Engineer, ATTN: CEORL–OR–F, P.O. Box 59, Louisville, KY 40201–0059
LOUISIANA
New Orleans District Engineer, ATTN: CELMN–OD–S, P.O. Box 60267, New Orleans, LA 70160–0267
MAINE
New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149
MARYLAND
Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715
MASSACHUSETTS
New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149
MICHIGAN
Detroit District Engineer, ATTN: CENCE–CO–L, P.O. Box 1027, Detroit, MI 48231–1027
MINNESOTA
St. Paul District Engineer, ATTN: CENCS–CO–R, 190 Fifth Street, East, St. Paul, MN 55101–1638
MISSISSIPPI
Vicksburg District Engineer, ATTN: CELMV–CO–O, P.O. Box 80, Vicksburg, MS 39180–0080
MISSOURI
Kansas City District Engineer, ATTN: CEMRK–OD–P, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896
MONTANA
Omaha District Engineer, ATTN: CEMRO–OP–R, P.O. Box 5, Omaha, NE 68101–0005
NEBRASKA
Omaha District Engineer, ATTN: CEMRO–OP–R, 215 North 17th Street, Omaha, NE 68101–4978
NEVADA
Sacramento District Engineer, ATTN: CESPK–CO–O, 1325 J Street, Sacramento, CA 95814–2922
NEW HAMPSHIRE
New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149
NEW JERSEY
Philadelphia District Engineer, ATTN: CENAP–OP–R, Wannamaker Building, 100 Penn Square East, Philadelphia, PA 19106–2991
NEW MEXICO
Albuquerque District Engineer, ATTN: CESWA–CO–R, 4101 Jefferson Plaza NE, Rm 313, Albuquerque, NM 87109–3435
NEW YORK
New York District Engineer, ATTN: CENAN–OP–R, Jacob K. Javits Federal Building, New York, NY 10278–0090
NORTH CAROLINA
Wilmington District Engineer, ATTN: CESAW–CO–R, P.O. Box 1890, Wilmington, NC 28402–1890
NORTH DAKOTA
Omaha District Engineer, ATTN: CEMRO–OP–R, 215 North 17th Street, Omaha, NE 68102–4978
OHIO
Huntington District Engineer, ATTN: CEORH–OR–F, 502 8th Street, Huntington, WV 25701–2070
OKLAHOMA
Tulsa District Engineer, ATTN: CESWT–OD–R, P.O. Box 61, Tulsa, OK 74121–0061
OREGON
Portland District Engineer, ATTN: CENPP–PL–R, P.O. Box 2946, Portland, OR 97208–2946
PENNSYLVANIA
Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715
RHODE ISLAND
New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149
SOUTH CAROLINA
Charleston District Engineer, ATTN: CESAC–CO–P, P.O. Box 919, Charleston, SC 29402–0919
SOUTH DAKOTA
Omaha District Engineer, ATTN: CEMRO–OP–R, 215 North 17th Street, Omaha, NE 68102–4978
TENNESSEE
Nashville District Engineer, ATTN: CEORN–OR–F, P.O. Box 1070, Nashville, TN 37202–1070
TEXAS
Ft. Worth District Engineer, ATTN: CESWF–OD–R, P.O. Box 17300, Ft. Worth, TX 76102–0300
UTAH
Sacramento District Engineer, ATTN: CESPK–CO–O, 1325 J Street, CA 95814–4794
VERMONT
New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149
VIRGINIA
Norfolk District Engineer, ATTN: CENAO–OP–P, 803 Front Street, Norfolk, VA 23510–1096
WASHINGTON
Seattle District Engineer, ATTN: CENPS–OP–RG, P.O. Box 3755, Seattle, WA 98124–2255
WEST VIRGINIA
Huntington District Engineer, ATTN: CEORH–OR–F, 502 8th Street, Huntington, WV 25701–2070
WISCONSIN
St. Paul District Engineer, ATTN: CENCS–CO–R, 190 Fifth Street, East, St. Paul, MN 55101–1638
WYOMING
Omaha District Engineer, ATTN: CEMRO–OP–R, 215 North 17th Street, NE 68102–4978
DISTRICT OF COLUMBIA
Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715
PACIFIC TERRITORIES
Honolulu District Engineer, ATTN: CEPOD–ET–PO, Building 230, Fort Shafter, Honolulu, HI 96858–5440
PUERTO RICO & VIRGIN IS
Jacksonville District Engineer, ATTN: CESAJ–RD, P.O. Box 4970, Jacksonville, FL 32232–0019

State (or Tribal) Certification of Nationwide Permits

State or tribal water quality certification pursuant to Section 401 of the Clean Water Act, or waiver thereof, is required for activities authorized by NWPs which may result in a discharge into waters of the United States. In addition, any state with a Federally approved Coastal Zone Management (CZM) Plan must agree with the Corps determination that activities authorized by NWPs which are within, or will affect any land or water uses or natural resources of the state's coastal zone are consistent with the state CZM Plan.

The Corps believes that, in general, the activities authorized by the NWPs will not violate state or tribal water quality standards and will be consistent with state CZM Plans. The NWPs are conditioned to ensure that adverse environmental effects will be minimal and are the types of activities that would be routinely authorized, if evaluated under the individual permit process. The Corps recognizes that in some states or tribes there will be a need to add regional conditions or individual state or tribal review for some activities to ensure compliance with state water quality standards or consistency with state CZM Plans. The Corps goal is to

develop such conditions so that the states or tribes can issue 401 water quality certifications or CZM consistency agreements. Therefore, each Corps District will initiate discussions with their respective states, tribes, and EPA following publication of this proposal to discuss issues of concern and identify regional modifications and other approaches to the scope of waters, activities, discharges, and notification, as appropriate, to resolve these issues. Note that there will be some states where a state programmatic general permit (SPGP) has been adopted and the NWPs have been wholly or partially revoked. Simultaneous with today's proposal, Corps Districts may be proposing modification or revocation of the NWP in states where SPGPs will be used in place of some or all of the NWP program.

Section 401 of the Clean Water Act: This Federal Register notice of these NWPs serves as the Corps application to the states, tribes, or EPA, where appropriate, for 401 water quality certification of the activities authorized by these NWPs. The states, tribes, and EPA, where appropriate, are requested to issue, deny, or waive certification pursuant to 33 CFR 330.4 (c) for these NWPs.

Section 401 water quality certification requirements fall into the following general categories:

NWPs numbered 1, 2, 8, 9, 10, 11, 24, 28 and 35 do not require 401 water quality certification since they would authorize activities which, in the opinion of the Corps, could not reasonably be expected to result in a discharge and in the case of NWP 8 is seaward of the territorial seas.

NWPs numbered 3, 4, 5, 6, 7, 13, 14, 19, 20, 21, 22, 23, 27, 32, 33, 36, 37, 38, and D involve various activities, some of which may result in a discharge and require 401 water quality certification, and others of which do not. State denial of 401 water quality certification for any specific NWP in this category affects only those activities which may result in a discharge. For those activities not involving discharges, the NWP remains in effect.

NWPs identified as 12, 15, 16, 17, 18, 25, 26, 29, 34, 40, A, B, and C, involve activities which would result in discharges and therefore 401 water quality certification is required.

If the state denies a 401 water quality certification for certain activities within that state, then the Corps will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must first obtain a project specific 401 water quality certification or waiver thereof from the state before proceeding under the NWP. This requirement is provided at 33 CFR 330.4(c).

Section 307 of the Coastal Zone Management Act (CZMA): This Federal Register notice serves as the Corps determination that the activities authorized by these NWPs are consistent with states' CZM programs, where applicable. This determination is contingent upon the addition of state CZM conditions and/or regional conditions or the issuance by the state of an individual consistency concurrence, where necessary. The states are requested to agree or disagree with this consistency determination pursuant to 33 CFR 330.4(d) for these NWPs.

The Corps CZMA consistency determination only applies to NWP authorizations for activities that are within, or affect any land or water uses or natural resources of a state's coastal zone. NWP authorizations for activities that are not within or would not affect a state's coastal zone are not contingent on such state's agreement or disagreement with the Corps consistency determinations.

If a state disagrees with the Corps CZMA consistency determination for certain activities, then the Corps will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must present a consistency certification to the appropriate state agency for concurrence. Upon concurrence with such consistency certifications by the state, the activity would be authorized by the NWP. This requirement is provided at 33 CFR 330.4(d).

Discussion of Proposed Modifications to Existing Nationwide Permits

The proposed changes to the existing NWPs fall into three categories:

Category I (Cat I)—Clarification of existing NWPs to address questions and issues that have arisen since the NWPs were issued in 1991. It does not change the number and types of activities now authorized by the NWP.

Category II (Cat II)—Changes to existing NWPs due to the modification of the definition of discharge of dredged material in the Excavation Rule, as published in the Federal Register on August 25, 1993 (58 FR 45008–38). These NWPs involve activities that previously only required Section 10 authorization but are now regulated under Section 404 as well. These proposed changes will not change the number and type of activities now authorized by the NWP.

Category III (Cat III)—Modifications to existing NWPs that change the number of activities authorized under these NWPs.

The following is a discussion of our reasons for modifying existing NWPs. If an existing NWP is not listed, we are not proposing to change it but to reissue the current NWP.

4. *Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities.* (Cat I) We are clarifying that NWP 4 does not authorize the use of covered oyster trays or clam racks.

6. *Survey Activities.* (Cat III) The Corps is proposing to allow discharges of dredged or fill material and placement of structures necessary to complete a survey for historic resources, but not for discharges or structures necessary for the actual recovery of the artifacts/information. The Corps is also proposing to authorize activities necessary to conduct soil surveys and sampling. This NWP does not authorize the placement of any permanent structures.

8. *Oil and Gas Structures.* (Cat I) We are clarifying that any Corps review of this NWP, that may be required by discretionary authority, is limited to the effects on navigation and national security as stated in 33 CFR 322.5(f).

12. *Utility Line Discharges.* (Cat I and II) We are proposing to modify the wording of this NWP to include the discharge of material resulting from the trench excavation. We are also soliciting comments on whether limitations should be established for discharges into special aquatic sites. Also included is clarification concerning parallel structures to waterbodies and mechanized landclearing of right-of-ways for utility lines located below the surface of waters of the United States to the minimum necessary.

16. *Return Water From Upland Contained Disposal Areas.* (Cat II) The Corps proposes to modify the wording of this NWP to note dredging may now require a Section 404 permit.

18. *Minor Discharges.* (Cat I) We are proposing to modify the wording of this NWP to include the volume of any excavated area as a measurement of the quantity of discharge.

19. *Minor Dredging.* (Cat II) We are proposing to modify this NWP to authorize under section 404 of the Clean Water Act, the incidental discharges associated with the dredging activity. However, this NWP does not apply in Section 404 only waters. Furthermore, it does not apply in wetlands, coral reefs, sites that support submerged aquatic vegetation, or anadromous fish spawning area. NWPs 18 and 19 may be combined in Section 10 only waters (i.e., navigable waters of the United States). For example, because

Notification is not required for NWP 18 under 10 cubic yards, a total of 35 cubic yards may be excavated from a navigable water of the U.S. (i.e., Section 10 water) using a combination of NWPs 18 and 19, without notification. Excavation greater than 35 cubic yards but less than 50 cubic yards require notification.

21. *Surface Coal Mining Activities.* (Cat III) We are considering expanding this NWP for mining activities on previously mined lands that have not been subject to restoration. Currently, there is a disincentive for mining companies to use an area that has been impacted by previous mining activities, where wetlands have naturally established. In such cases, mining companies are generally required as a condition of the permit to mitigate off-site prior to or early in the mining operation. These previously mined areas are generally degraded and of poor quality. While in some cases, the wetlands may be of good quality, the overall area remains degraded. We are proposing to add a provision that when previously mined lands are used and wetlands have naturally established, any mitigation requirements would be limited to onsite mitigation to occur at the completion of the work. A performance bond would be required to ensure the restoration occurs. The purpose of this provision would be to encourage the mining of previously mined areas that are degraded rather than the mining of new areas. Under this proposal, previously degraded mined areas would be restored upon completion of the subsequent mining operation. We have not proposed specific language and are seeking comments recommending the terms and conditions for this proposed addition to this NWP.

25. *Structural Discharges.* (Cat I and II) We are clarifying that this NWP may be utilized for general navigation purposes, such as the construction of mooring cells and some excavation activities necessary for construction of the structure.

26. *Headwaters and Isolated Waters Discharges.* (Cat III) To provide additional time for review and to better ensure project effects are minimal, we are proposing to increase the 30- day pre-construction notification (PCN) process to a 45-day PCN. The maximum time frame will allow for review and evaluation of effects of a project when necessary to ensure that the project effects are minimal. We expect that the increased time will only be used in a minority of the NWP 26 PCNs and then generally only when necessary to analyze the acceptability of developing adequate mitigation. We believe that the average processing time for NWP PCNs will continue to be under 30 days. In addition, the Corps is considering changing the acreage threshold limits of NWP 26. Currently, activities that affect less than one acre may proceed without notifying the Corps, activities affecting 1 to 10 acres require a PCN, and activities affecting over 10 acres may not be authorized by this NWP. The Corps is proposing 3 options for the acreage limits that would define when a PCN must be submitted. We are requesting comments on these options which are as follows:

Option 1: 1 to 10 acres (current thresholds)
Option 2: ½ to 5 acres
Option 3: ⅓ to 3 acres

Based on a survey of Corps field offices using FY94 data, the estimated numbers of additional activities that would require a PCN are 3700 for Option 2 and 5200 for Option 3 annually. However, while not required to, many of these projects are now requesting a verification from the Corps without the guarantee of a decision time frame. The PCN would provide that guarantee. In addition, in several Corps districts, the states have denied Section 401 water quality certifications for the larger projects. Furthermore, in some states, the Corps has issued state programmatic general permits based on state programs that have lower limits. The Corps does not believe that this proposal would result in many more individual permits. The Corps anticipates that most of these PCN activities, as with the verification requests that are currently being submitted for projects impacting less than 1 acre of waters of the United States, will be authorized by NWP 26. The increased review will increase environmental protection and increase consistency for projects below 1 acre of effects to waters of the United States.

To offset the additional workload and to expedite the review that either Option 2 and 3 may generate for some Districts, the PCN for projects affecting between the minimum threshold (½ or ⅓) and 1 acre would not require coordination with the resource agencies. Finally, the Corps believes that this proposal together with all the changes proposed today will not increase the Corps average processing time for general permits but will provide for increased environmental protection.

Regionalization of NWP 26: As noted in the President's Plan, the Corps will initiate a process to regionalize this NWP following a decision regarding which threshold option is adopted. The regionalization of NWP 26 will further improve its effectiveness. The Corps, in coordination with appropriate Federal, State, Tribal agencies and the public, will conduct a field level review for the purpose of identifying, on a regional basis, the types of waters and activities that would be authorized by this NWP. This approach was developed after careful consideration of several alternatives. Regionalization of NWP 26 has several advantages including the ability to appropriately condition this general permit to reflect the more local environmental conditions within each state or region, and facilitate State/Tribal (or EPA) certification of the permit.

The Corps recognizes that fewer than half the states have issued section 401 certification for the existing NWP 26. As part of the discussions that would be initiated by the Corps districts with their respective states, tribes, and EPA to address issues related to Section 401 certification, the Corps would work with the parties to determine what modifications can be made on a regional basis to NWP 26, in terms of acreage limits, types of waters, notification, and authorized activities.

27. *Wetland and Riparian Restoration and Creation Activities.* (Cat II and III) The Corps proposes to modify this NWP to allow projects to occur on any Federal lands. Projects occurring on private land will still be permitted provided there is a binding contract between the landowner and the Federal Government which describes the long term management goals of the project. Projects occurring on Federal land by Federal agencies would be allowed after review and approval of the Operation and Maintenance Plan for the project. Also, we are considering expanding this NWP to allow for the creation of wetlands and their subsequent reversion on reclaimed surface coal mined lands provided the wetlands were voluntarily created under an Office of Surface Mining (OSM) permit or an applicable state program permit. OSM has estimated that thousands of acres of wetlands could be created each year most of which would be left undisturbed permanently. This would not apply to wetlands created as mitigation for the mining permit, nor to wetlands or waters that would be created due to hydrologic or topographic features of the landscape, and nor to wetlands created for a mitigation bank. We have not proposed specific language and are seeking comments recommending the terms and condition for this NWP.

We are also seeking comments on whether (1) to eliminate the 5 year window of reversion opportunity and

allow the reversion to occur at any time in the future; (2) to allow use of this NWP to any voluntary restoration/creation project; (3) to include enhancement as an option; and (4) to require a written agreement in all cases, even where voluntary restoration is occurring under other Federal or State programs without a written agreement. If we should require a written agreement in such cases, who should approve it and when? If there is no written agreement requirement, how should the baseline be documented and should there be a time limit for any reversion to take place?

29. *Single-Family Housing NWP.* This NWP was published for public comment in the March 23, 1995, Federal Register (60 FR 15439) and became effective on September 25, 1995 (60 FR 38650). We are now proposing to reissue this NWP. This will put all the NWPs on the same five-year review cycle. We are proposing to modify the notification process so that it will be the same as other NWPs and to provide for resource agency coordination during the notification review process. We are not, at this time, proposing any other modifications to this NWP. Should we not reissue NWP 29 at this time, it will remain in effect until it expires on September 25, 2000 unless modified, suspended, or revoked sooner.

We are, however, interested in your comments concerning the impacts of this NWP. We continue to believe that this NWP provides relief to small landowners with minimal effects on the aquatic environment. Since its issuance, we have tracked the use of this NWP. For the first two quarters (October 1995–March 1996), NWP 29 was used a total of 123 times nationwide resulting in only 27.1 acres of wetland impacts. This use and acreage amount was well below what we initially estimated. We will continue to track the use of this NWP to insure the effects are minimal.

32. *Completed Enforcement Work.* (Cat III) The Corps is proposing several changes to this NWP. First, we are proposing to expand the scope beyond judicial enforcement actions to include agreements resulting from Corps negotiated settlements that are not a part of judicial actions, provided that such final agreements satisfy the specific criteria set out in paragraphs (i) (A)–(C) of the proposed permit. By setting out standards limiting the extent of the unauthorized activity and ensuring that the overall effect of the final agreement is, at a minimum, no net loss of wetlands, subpart (i) of the proposed NWP satisfies the ''minimal effects'' threshold for issuance of NWPs. This subpart also clarifies that obtaining an agreement does not grant automatic coverage under this NWP. A written verification from the District Engineer is required.

This expansion of NWP 32 would eliminate a duplication of our evaluation efforts. Currently, we begin the enforcement action, in accordance with 33 CFR 326, with a thorough evaluation process, usually involving full agency coordination. This process often leads to an agreement which may include restoration and mitigation. In such cases, we then reevaluate the action through a second evaluation process usually leading to issuance of an after-the-fact (ATF) permit. This NWP would eliminate the need for the second evaluation process for those actions that would qualify for the NWP. This, in turn, would reduce the need for those ATF permits that consume permit application processing resources without providing an appreciable environmental benefit. The ATF permit process still remains a valuable tool in the enforcement program as a way to resolve those violations that could not be resolved through a settlement agreement and do not warrant judicial action.

The other changes to this NWP apply to both judicial decisions and agreements and nonjudicial administrative enforcement settlements. They clarify that compliance with the underlying judicial or administrative decision or agreement is a condition of the NWP itself and that the only future activities authorized under this permit are those undertaken to complete the restoration and/or mitigation in compliance with such decision or agreement.

The Corps is also considering providing that EPA administrative settlement agreements could be authorized under this NWP. We are seeking comments concerning whether this would be appropriate and if so, what conditions, if any, would be appropriate.

33. *Temporary Construction, Access and Dewatering.* (Cat I and II) We are proposing to add the provision from recent guidance stating that this NWP could be used for construction activities not subject to either the Corps or U.S. Coast Guard regulations. We also propose to allow the use of on-site dredged material for temporary fills, at the discretion of the District Engineer. Also, the last sentence of this NWP as it currently exists will be deleted. As a result of the Excavation Rule, we now regulate both mining activities and construction of marina basins in Section 404 areas; therefore, this provision is no longer applicable.

38. *Cleanup of Hazardous and Toxic Waste.* (Cat I) The Corps proposes to clarify which projects approved under CERCLA do not require authorization under sections 10 and 404.

40. *Farm Buildings.* (Cat I) The reference to the ''Minimization'' Condition is being corrected to reflect its current title, ''Mitigation'' Condition. We are also proposing to delete ''agricultural related structures necessary for farming activities'' to clarify that we intend that this NWP is for authorization of farm buildings such as agricultural sheds, supply storage, animal housing, and production facilities located on a farm or ranch.

The following is a discussion of the new NWPs we are proposing to issue. We have identified these NWPs by letters for the purposes of proposing these NWPs. If issued, they would be placed at a reserved NWP number or given a new number.

A. *Moist Soil Management for Wildlife.* The Corps is proposing to authorize discharges of dredged or fill material into non-tidal wetlands necessary to manage, construct, and/or maintain habitat and feeding areas for wildlife. This NWP applies to Federally-owned or managed and State-owned or managed property. Currently, certain management practices (discing, plowing, mechanized land clearing, etc.) require site specific authorization even though the discharge of dredged material is for the enhancement/maintenance of the aquatic area. Some wildlife management practices were not consistently regulated until 1993. In an effort to reduce the effect of the changes on the regulation of minor activities with only minimal adverse environmental effects due to the excavation rule, this proposal will allow the management of existing wildlife areas to proceed without unnecessary review by various agencies. This proposal will also further the goal of the President's Wetlands Plan to reduce duplication among regulatory agencies. This will, of course, still allow for the use of discretionary authority when very sensitive/unique areas may be adversely effected by these activities.

B. *Food Security Act Minimal Effect Exemptions.* As noted in the President's Wetland Plan, the Corps is proposing a NWP for discharges of dredged or fill material into waters of the United States associated with certain minimal effect determinations, that are exemptions from the Food Security Act, as determined by the Natural Resources Conservation Service (NRCS) in accordance with a written agreement between the NRCS and the landowner. This NWP also authorizes any

mitigation for these exemptions that is required by the written agreement.

The goal of the President's Wetland Plan is to produce one-stop-shopping and reduce the differences between programs to the extent practicable. In this regard, the Corps believes that some NRCS exemptions would qualify for authorization under a NWP while others would not. We are not proposing specific language for the NWP. We are requesting public comments suggesting limitations or restrictions for this NWP in order to insure effects are minimal. The final language would be based on Section 322 of the 1996 Farm Bill, NRCS regulations, and comments submitted regarding limitations and/or thresholds that should be established to ensure that these activities meet the requirements for issuance of NWPs. To assist you in providing us comments on this NWP, we have included the following excerpt from Section 322 of the 1996 Farm Bill (H.R. 2854) which discusses the minimal effect determination:

* * *The minimal effect exemption will apply when the Secretary (of the U.S. Department of Agriculture) has determined that 1 or more of the following conditions exist:

(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

(A) In accordance with a wetland conservation plan;

(B) In advance of, or concurrent with, the action;

(C) Not at the expense of the Federal Government;

(D) In the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

(E) In the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

(F) on lands in the same general area of the local watershed as the converted wetland; and

(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

(i) Is recorded on public land records;

(ii) Remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

(iii) Prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland's functions and values.

(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F) and (G) of paragraph (2).

(4) The action was authorized by a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subtitle.

C. *Mining Operations.* The Corps is proposing to authorize certain work and/or discharges of dredged material incidental to active mining of sand and gravel and recreational mining.

Paragraph a. of the proposed NWP will allow certain operations existing before August 1993, where the effects have already occurred, some for many years, to continue in some cases on a limited basis, with minimal regulation. Until the final excavation rule was issued on August 25, 1993, some active mining operations had not been regulated under either Section 402 (EPA jurisdiction) or Section 404 (Corps jurisdiction). Authorization under this NWP would be for a defined area, would not include expansion, and would require ''Notification'' to the Corps. In addition, we are expressly seeking comments on appropriate restrictions for this NWP including seasonal use (e.g., fish spawning), application of best management practices, and restrictions or prohibitions on in-stream use. For example, should the NWP be limited to activities effecting less than a certain number of acres of waters of the United States or involving less than a certain number of cubic yards of excavated material annually?

Paragraph b. of the proposed NWP would authorize recreational mining with minimal effects either individually or cumulatively. The potential environmental effects of mining operations of this nature vary considerably throughout the country. Therefore, we are not proposing any nationwide specific limitations. We believe limitations are more appropriately established by the Corps Districts and Division at the local level based on public comment. The Division Engineer is responsible for establishing appropriate limits on recreational mining operations within their areas of regulatory responsibility after public notice and opportunity for public hearing. The Division Engineer will add regional conditions, as necessary, to ensure that the effects will be minimal. This portion of the NWP will not be effective until the Division Engineer establishes regional limitations. On a case-by-case basis, the District Engineer will, if necessary, add appropriate and practicable special conditions to ensure that effects are minimal or will exert discretionary authority to require an individual permit for any activity whose effects exceed the minimal threshold. If you believe that NWP conditions should be established, we welcome comments on appropriate restrictions for this NWP including seasonal use (e.g., fish spawning), application of best management practices, and limitations on in-stream use. Again, for example, should the NWP be limited to activities effecting less than a certain number of acres of waters of the United States or a certain number of linear feet of stream channel?

While the Corps is primarily concerned with establishing NWP thresholds to determine which activities could be authorized under this NWP, the Corps is also considering establishing thresholds for recreational mining, below which a Corps permit would not be required. For recreational mining that does not destroy or degrade waters of the United States, a Section 404 permit is not required pursuant to 33 CFR 323.2(d)(3) of the Excavation Rule. Recreational activities that have a de minimis (inconsequential) effect do not require a permit. Several Corps District Offices have solicited comments from the public to establish a de minimis threshold. Other Corps districts will also be issuing public notices to seek public comment to establish threshold limits for minor activities that will not destroy or degrade aquatic resources. Such inconsequential activities would not require a Corps permit.

This NWP is not to be used for peat mining nor may it be used to access sand and gravel through a peat deposit that is a water of the United States. The discharge of onshore or onboard processed material into waters of the U.S. is considered a Section 402 discharge and may also require a permit under Section 402 of the Clean Water Act. For the purpose of this NWP, activities can be considered ''recreational'' when they are primarily for personal enjoyment and are not reasonably associated with or an extension of a commercial enterprise. For example, a commercial enterprise where mining interests are leased, sold, transfered, etc., to individuals to

conduct ''recreational'' mining does not qualify for the NWP.

D. *Maintenance of Existing Flood Control Projects.* The Corps proposes to authorize the excavation and removal of accumulated sediment and associated vegetation for maintenance of existing flood control facilities including debris basins, retention/detention basins and channels not to exceed previously authorized depths and configurations provided the dredged material is disposed of at an upland site or a currently authorized disposal site in waters of the United States, and proper siltation controls are used. Prior to the excavation rule, this activity was not consistently regulated by the Corps. Further, the Corps believes that, when considering a baseline environmental condition or the approved flood control channel, such excavation activities will not result in more than minimal effects. The Corps is interested in receiving comments regarding whether time limits should be placed on accepting the baseline condition of older projects that have had little or no maintenance over the years.

Notification to the District Engineer is being proposed for excavation undertaken in flood control facilities such as unlined basins or channels that were previously authorized, or authorized by 33 CFR 330.3. We are interested in receiving comments regarding the maximum cubic yardage to be allowed before notification is required.

This NWP is not intended to authorize the removal of sediment and associated vegetation from natural water courses for such purposes as redirecting or conveying normal water flows. Only channels within stretches of natural rivers that have previously been authorized as part of a flood control facility would be covered under this NWP. The Corps will consider the use of discretionary authority when sensitive/unique areas or significant social or ecological functions and values may be adversely effected or where the maintenance may exceed present flood control needs, such as in cases where successive flood control projects on a watershed have affected flood control needs.

Discussion of Nationwide Permit Conditions

General Conditions

The following is a discussion of our reasons for proposing changes to some existing NWP conditions. If an existing NWP condition is not listed, we are not proposing to change it.

7. *Wild and Scenic Rivers.* We are proposing to modify this condition to reduce the number of individual permits that are needlessly processed due to the prohibition of authorizing a project under NWP procedures in designated Wild and Scenic Rivers or those in an official study status where activities are compatible with and do not adversely affect such rivers. The Corps is proposing that these activities could be allowed under NWP after coordination with the appropriate Federal agency with direct management responsibility for the river and after a determination is made by that agency that the proposed activity will not adversely effect the study status or the designated Wild and Scenic River status.

13. *Notification.* We are proposing to modify the notification requirements. We will no longer require applicants to contact the State Historic Preservation Officer (SHPO) and the U.S. Fish and Wildlife Service/National Marine Fisheries Service before submitting the pre-construction notification PCN). We continue to encourage applicants to contact these agencies to obtain information; however, the Corps will now send the PCN to these agencies. Many SHPOs have indicated that they prefer not to deal directly with the applicants. Therefore, the Corps will coordinate with the applicants and include the SHPO as an agency receiving the PCN. This will insure that the SHPO is afforded an opportunity to provide comments prior to the decision to authorize a project under the NWP. The SHPO will also be held to the same time restraints as the other agencies.

We are also proposing a change to the notification requirements on six NWPs. Currently, NWPs 5, 7, 13, 14, 17, 18, 21, 26, 33, 34, 37, and 38 require coordination with the resource agencies during the notification process. We recently surveyed the field to determine the effectiveness of requiring agency coordination for these NWPs. We found that for NWPs 14, 21, 26, 33, 37, and 38, coordination with the resource agencies generally generated substantive comments and assisted us in making sound environmental decisions. Therefore, we will maintain the agency coordination requirement for these NWPs. Conversely, for NWPs 5, 7, 13, 17, 18, and 34, we did not find the same level of substantive comments. Many Corps districts indicated that they received very few, if any, comments on work proposed by these NWPs. Therefore, we are proposing to eliminate the requirement for agency coordination for these NWPs except in those circumstances where a Regional Administrator of EPA, a Regional Director of USFWS, or a Regional Director of NMFS has formally requested general notification from the District Engineer for the activities covered by any of these NWPs. In such cases, the Corps will provide the requesting agency with notification on the particular NWPs. However, where the agencies have a record of not generally submitting substantive comments on activities covered by any of these NWPs, the Corps district may discontinue to provide notification to those regional agency offices.

We are also proposing to increase the notification time period from 30 days to 45 days for NWP 26 to allow the District Engineer sufficient time to determine that the proposed project has minimal adverse environmental effects for this NWP. As part of this change, the resource agencies will now have 7 calendar days to conduct an initial review of the proposed action and 14 additional calendar days to submit substantive, site-specific comments.

In addition, we are proposing notification procedures and agency coordination for NWP 29 and the new NWPs C and D. We have determined that coordination with the resource agencies will be useful in ensuring that projects proposed for authorization under these NWPs have minimal adverse environmental effects.

Notification procedures for those NWPs are outlined under General Condition #13 (Notification) in the proposed rule.

Section 404 Only Condition

4. *Mitigation.* We have proposed changing the wording of this condition to clarify the phrase ''unless the District Engineer has approved a compensatory mitigation plan for the specific regulated activity.'' The wording would be changed to: ''unless the District Engineer approves a compensatory mitigation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures.''

Environmental Documentation

We have made a preliminary determination that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Preliminary environmental documentation has been prepared for each proposed NWP. This documentation includes a preliminary environmental assessment and, where relevant, a preliminary Section 404(b)(1) Guidelines compliance review. Copies of these documents are available for inspection at the office of the Chief of

Engineers, at each Corps district office and on Corps Home Page at http://wetland.usace.mil. Based on these documents the Corps has provisionally determined that the proposed NWPs comply with the requirements for issuance under general permit authority.

Authority

We are proposing to issue new NWPs, modify existing NWPs, and reissue NWPs without change under the authority of Section 404(e) of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 et seq.).

Note 1: The terms ''he'' and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

Dated: June 7, 1996.

Stanley G. Genega,

Major General, U.S. Army, Director of Civil Works.

Nationwide Permits and Conditions

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B. Nationwide Permits

1. *Aids to Navigation.* The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard. (See 33 CFR Part 66, Chapter I, Subchapter C). (Section 10)

2. *Structures in Artificial Canals.* Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized (see 33 CFR 322.5(g)). (Section 10)

3. *Maintenance.* The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement are permitted, provided the environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This NWP authorizes the repair, rehabilitation, or replacement of those structures destroyed by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced or under contract to commence within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the District Engineer, provided the permittee can demonstrate funding, contract, or other similar delays. Maintenance dredging and beach restoration are not authorized by this NWP. (Sections 10 and 404)

4. *Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities.* Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging; and small fish attraction devices such as open water fish concentrators (sea kites, etc.). This NWP authorizes shellfish seeding provided this activity does not occur in wetlands or sites that support submerged aquatic vegetation. This NWP does not authorize artificial reefs or impoundments and semi-impoundments of waters of the United States for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks. (Sections 10 and 404)

5. *Scientific Measurement Devices.* Staff gages, tide gages, water recording devices, water quality testing and improvement devices and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized provided the discharge is limited to 25 cubic yards and further for discharges of 10 to 25 cubic yards provided the permittee notifies the District Engineer in accordance with the ''Notification'' general condition. (Sections 10 and 404)

6. *Survey Activities.* Survey activities including core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, soil survey and sampling, and historic resources surveys. Discharges and structures associated with the recovery of historic resources are not authorized by this NWP. Drilling and the discharge of excavated material from test wells for oil and gas exploration is not authorized by this NWP; the plugging of such wells is authorized. Fill placed for roads, pads and other similar activities is not authorized by this NWP. The discharge of drilling muds and cuttings may require a permit under Section 402 of the Clean Water Act. (Sections 10 and 404)

7. *Outfall Structures.* Activities related to construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act), provided that the nationwide permittee notifies the District Engineer in accordance with the ''Notification'' general condition. (Also see 33 CFR 330.1(e)). Intake structures per se are not included—only those directly associated with an outfall structure. (Sections 10 and 404)

8. *Oil and Gas Structures.* Structures for the exploration, production, and transportation of oil, gas, and minerals on the outer continental shelf within areas leased for such purposes by the Department of the Interior, Minerals Management Service. Such structures shall not be placed within the limits of any designated shipping safety fairway or traffic separation scheme, except temporary anchors that comply with the fairway regulations in 33 CFR 322.5(l). (Where such limits have not been designated, or where changes are anticipated, District Engineers will consider asserting discretionary authority in accordance with 33 CFR 330.4(e) and will also review such proposals to ensure they comply with the provisions of the fairway regulations in 33 CFR 322.5(l). Any Corps review under this permit will be limited to the effects on navigation and national security in accordance with 33 CFR 322.5(f)). Such structures will not be placed in established danger zones or restricted areas as designated in 33 CFR Part 334: nor will such structures be permitted in EPA or Corps designated dredged material disposal areas. (Section 10)

9. *Structures in Fleeting and Anchorage Areas.* Structures, buoys, floats and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard. (Section 10)

10. *Mooring Buoys.* Non-commercial, single-boat, mooring buoys. (Section 10)

11. *Temporary Recreational Structures.* Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use provided that such structures are removed within 30 days after use has been discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually. (Section 10)

12. *Utility Line Discharges.* Discharges of dredged or fill material associated with excavation, backfill or bedding for utility lines, including outfall and intake structures, provided there is no change in preconstruction contours. A ''utility line'' is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. The term ''utility line'' does not include activities which drain a water of the United States, such as drainage tile; however, it does apply to pipes conveying drainage from another area. This NWP does authorize mechanized landclearing for the installation of subaqueous utilities (i.e., below the surface of waters of the United States) provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained. However, temporary access roads or foundations associated with overhead transmission lines are not authorized by this NWP. Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the United States provided that the material is not placed in such a manner that it is dispersed by currents or other forces. The DE may extend the period of temporary side-casting not to exceed a total of 180 days, where appropriate. The area of waters of the United States that is disturbed must be limited to the minimum necessary to construct the utility line. Where the utility line parallels a water of the United States, care should be taken to minimize disturbance of the regulated waterbody. In wetlands, the top 6'' to 12'' of the trench should generally be backfilled with topsoil from the trench. Excess material must be removed to upland areas immediately upon completion of construction. Any exposed slopes and streambanks must be stabilized immediately upon completion of the utility line. The utility line itself will require a Section 10 permit if in navigable waters of the United States. (See 33 CFR Part 322). (Section 404)

13. *Bank Stabilization.* Bank stabilization activities necessary for erosion prevention provided:

a. No material is placed in excess of the minimum needed for erosion protection;

b. The bank stabilization activity is less than 500 feet in length;

c. The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line;

d. No material is placed in any special aquatic site, including wetlands;

e. No material is of the type or is placed in any location or in any manner so as to impair surface water flow into or out of any wetland area;

f. No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

g. The activity is part of a single and complete project. Bank stabilization activities in excess of 500 feet in length or greater than an average of one cubic yard per running foot may be authorized if the permittee notifies the District Engineer in accordance with the ''Notification'' general condition and the District Engineer determines the activity complies with the other terms and conditions of the NWP and the adverse environmental effects are minimal both individually and cumulatively. (Sections 10 and 404)

14. *Road Crossing.* Fills for roads crossing waters of the United States (including wetlands and other special aquatic sites) provided:

a. The width of the fill is limited to the minimum necessary for the actual crossing;

b. The fill placed in waters of the United States is limited to a filled area of no more than ⅓ acre. Furthermore, no more than a total of 200 linear feet of the fill for the roadway can occur in special aquatic sites, including wetlands;

c. The crossing is culverted, bridged or otherwise designed to prevent the restriction of, and to withstand, expected high flows and tidal flows, and to prevent the restriction of low flows and the movement of aquatic organisms;

d. The crossing, including all attendant features, both temporary and permanent, is part of a single and complete project for crossing of a water of the United States; and,

e. For fills in special aquatic sites, including wetlands, the permittee notifies the District Engineer in accordance with the ''Notification'' general condition. The notification must also include a delineation of affected special aquatic sites, including wetlands. Some road fills may be eligible for an exemption from the need for a Section 404 permit altogether (see 33 CFR 323.4). Also, where local circumstances indicate the need, District Engineers will define the term ''expected high flows'' for the purpose of establishing applicability of this NWP. (Sections 10 and 404)

15. *U.S. Coast Guard Approved Bridges.* Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such discharges have been authorized by the U.S. Coast Guard as part of the bridge permit. Causeways and approach fills are not included in this NWP and will require an individual or regional Section 404 permit. (Section 404)

16. *Return Water From Upland Contained Disposal Areas.* Return water from an upland, contained dredged material disposal area. The dredging itself may require a Section 404 permit, but will require a Section 10 permit if located in navigable waters of the United States. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d) even though the disposal itself occurs on the upland and thus does not require a Section 404 permit. This NWP satisfies the technical requirement for a Section 404 permit for the return water where the quality of the return water is controlled by the state through the Section 401 certification procedures. (Section 404)

17. *Hydropower Projects.* Discharges of dredged or fill material associated with (a) small hydropower projects at existing reservoirs where the project, which includes the fill, are licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended; and has a total generating capacity of not more than 5000 KW; and the permittee notifies the District Engineer in accordance with the ''Notification'' general condition; or (b) hydropower projects for which the FERC has granted an exemption from licensing pursuant to Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and Section 30 of the Federal Power Act, as amended; provided the permittee notifies the District Engineer in accordance with the ''Notification'' general condition. (Section 404)

18. *Minor Discharges.* Minor discharges of dredged or fill material into all waters of the United States provided:

a. The quantity of discharged material and the volume of excavated area does not exceed 25 cubic yards below the plane of the OHWM or the High Tide Line;

b. The discharge, including any excavated area, will not cause the loss of more than 1/10 acre of a special aquatic site, including wetlands. For the purposes of this NWP, the acreage limitation includes the filled area and excavation area plus special aquatic sites that are adversely affected by flooding and special aquatic sites that are drained so that they would no longer be a water of the United States as a result of the project;

c. If the discharge, including any excavated area, exceeds 10 cubic yards or the discharge is in a special aquatic site, including wetlands, the permittee notifies the District Engineer in accordance with the ''Notification'' general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)); and

d. The discharge, including all attendant features, both temporary and permanent, is part of a single and complete project and is not placed for the purpose of a stream diversion. (Sections 10 and 404)

19. *Minor Dredging.* Dredging of no more than 25 cubic yards below the plane of the ordinary high water mark or the mean high water mark from navigable waters of the United States (i.e., Section 10 actions) as part of a single and complete project. This NWP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation, anadromous fish spawning areas, or wetlands or, the connection of canals or other artificial waterways to navigable waters of the United States (see Section 33 CFR 322.5(g)). (Section 10 and 404)

20. *Oil Spill Cleanup.* Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan, (40 CFR Part 300), provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR Part 112.3 and any existing State contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action. (Sections 10 and 404)

21. *Surface Coal Mining Activities.* Activities associated with surface coal mining activities provided they are authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977 and provided the permittee notifies the District Engineer in accordance with the ''Notification'' general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)) (Sections 10 and 404.)

Note: For the purposes of this proposed rule, a discussion of a proposed expansion for NWP 21 is provided in the Preamble.

22. *Removal of Vessels.* Temporary structures or minor discharges of dredged or fill material required for the removal of wrecked, abandoned, or disabled vessels, or the removal of man-made obstructions to navigation. This NWP does not authorize the removal of vessels listed or determined eligible for listing on the National Register of Historic Places unless the District Engineer is notified and indicates that there is compliance with the ''Historic Properties'' general condition. This NWP does not authorize maintenance dredging, shoal removal, or river bank snagging. Vessel disposal in waters of the United States may need a permit from EPA (see 40 CFR 229.3). (Sections 10 and 404)

23. *Approved Categorical Exclusions.* Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW–OR) has been furnished notice of

the agency's or department's application for the categorical exclusion and concurs with that determination. Prior to approval for purposes of this NWP of any agency's categorical exclusions, the Chief of Engineers will solicit public comment. In addressing these comments, the Chief of Engineers may require certain conditions for authorization of an agency's categorical exclusions under this NWP. (Sections 10 and 404)

24. *State Administered Section 404 Program.* Any activity permitted by a state administering its own Section 404 permit program pursuant to 33 U.S.C. 1344(g)–(l) is permitted pursuant to Section 10 of the Rivers and Harbors Act of 1899. Those activities which do not involve a Section 404 state permit are not included in this NWP, but certain structures will be exempted by Section 154 of Public Law 94–587, 90 Stat. 2917 (33 U.S.C. 59l) (see 33 CFR 322.3(a)(2)). (Section 10)

25. *Structural Discharges.* Discharges of material such as concrete, sand, rock, etc. into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, and walkways or for general navigation, such as mooring cells, including the excavation of bottom material from within the form prior to the discharge of concrete, sand, rock, etc. This NWP does *not* authorize filled structural members that would support buildings, homes, parking areas, storage areas and other such structures. Housepads or other building pads are also not included in this NWP. The structure itself may require a Section 10 permit if located in navigable waters of the United States. (Section 404)

26. *Headwaters and Isolated Waters Discharges.* Discharges of dredged or fill material into headwaters and isolated waters provided:

a. The discharge does not cause the loss of more than 10 (5,3)* acres of waters of the United States;

b. The permittee notifies the District Engineer if the discharge would cause the loss of waters of the United States greater than 1 (½, ⅓)* acre in accordance with the ''Notification'' general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)); and

c. The discharge, including all attendant features, both temporary and permanent, is part of a single and complete project.

For the purposes of this NWP, the acreage of loss of waters of the United States includes the filled area plus waters of the United States that are adversely affected by flooding, excavation or drainage as a result of the project. The 10 (5,3)*-acre and 1 (½, ⅓)*-acre limits of NWP 26 are absolute, and cannot be increased by any mitigation plan offered by the applicant or required by the District Engineer.

*Note: For the purposes of this proposed rule, a discussion of acreage threshold options being considered for NWP 26 is provided in the Preamble.

Subdivisions: For any real estate subdivision created or subdivided after October 5, 1984, a notification pursuant to subsection (b) of this NWP is required for any discharge which would cause the aggregate total loss of waters of the United States for the entire subdivision to exceed one (1) (½, ⅓)* acre. Any discharge in any real estate subdivision which would cause the aggregate total loss of waters of the United States in the subdivision to exceed ten (10) (5,3)* acres is not authorized by this NWP; unless the DE exempts a particular subdivision or parcel by making a written determination that: (1) the individual and cumulative adverse environmental effects would be minimal and the property owner had, after October 5, 1984, but prior to January 21, 1992, committed substantial resources in reliance on NWP 26 with regard to a subdivision, in circumstances where it would be inequitable to frustrate his investment-backed expectations, or (2) that the individual and cumulative adverse environmental effects would be minimal, high quality wetlands would not be adversely affected, and there would be an overall benefit to the aquatic environment. Once the exemption is established for a subdivision, subsequent lot development by individual property owners may proceed using NWP 26. For purposes of NWP 26, the term ''real estate subdivision'' shall be interpreted to include circumstances where a landowner or developer divides a tract of land into smaller parcels for the purpose of selling, conveying, transferring, leasing, or developing said parcels. This would include the entire area of a residential, commercial or other real estate subdivision, including all parcels and parts thereof. (Section 404)

27. *Wetland and Riparian Restoration and Creation Activities.* Activities in waters of the United States associated with the restoration of altered and degraded non-tidal wetlands and creation of wetlands on non-Federal public lands and private lands in accordance with the terms and conditions of a binding wetland restoration or creation agreement between the landowner and the U.S. Fish and Wildlife Service or the Natural Resources Conservation Service; or activities associated with the restoration of altered and degraded non-tidal wetlands, riparian areas and creation of wetlands and riparian areas on Federal land. Federal agencies may perform such activities on Federal land after review and approval of an Operations and Maintenance Plan for the project by the District Engineer. Such activities include, but are not limited to: Installation and maintenance of small water control structures, dikes, and berms; backfilling of existing drainage structures; construction of small nesting islands; plowing or discing for seed bed preparation; and other related activities. This NWP applies to restoration projects that serve the purpose of restoring ''natural'' wetland hydrology, vegetation, and function to altered and degraded non-tidal wetlands and ''natural'' functions of riparian areas. For agreement restoration and creation projects only, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its prior condition and use (i.e., prior to restoration under the agreement) within five years after expiration of the limited term wetland restoration or creation agreement, even if the discharge occurs after this NWP expires. The prior condition will be documented in the original agreement, and the determination of return to prior conditions will be made by the Federal agency executing the agreement. Once an area has reverted back to its prior physical condition, it will be subject to whatever the Corps regulatory requirements will be at that future date. This NWP does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. (Sections 10 and 404)

Note: For the purposes of this proposed rule, a discussion of an additional proposed expansion for NWP 27 is provided in the Preamble.

28. *Modifications of Existing Marinas.* Reconfiguration of existing docking facilities within an authorized marina area. No dredging, additional slips or dock spaces, or expansion of any kind within waters of the United States is authorized by this NWP. (Section 10)

29. *Single-Family Housing.* Discharges of dredged or fill material into non-tidal waters of the United States, including

non-tidal wetlands for the construction or expansion of a single-family home and attendant features (such as a garage, driveway, storage shed, and/or septic field) for an individual permittee provided:

a. The discharge does not cause the loss of more than ½ acre of non-tidal waters of the United States, including non-tidal wetlands;

b. The permittee notifies the District Engineer in accordance with the ''Notification'' general condition;

c. The permittee has taken all practicable actions to minimize the on-site and off-site effects of the discharge. For example, the location of the home may need to be adjusted on-site to avoid flooding of adjacent property owners;

d. The discharge is part of a single and complete project; furthermore, that for any subdivision created on or after November 22, 1991, the discharges authorized under this NWP may not exceed an aggregate total loss of waters of the United States of ½ acre for the entire subdivision;

e. An individual may use this NWP only for a single-family home for a personal residence;

f. This NWP may be used only once per parcel; and,

g. This NWP may not be used in conjunction with NWP 14, NWP 18, or NWP 26, for any parcel.

For the purposes of this NWP, the acreage of loss of waters of the United States includes the filled area previously permitted, the proposed filled area, and any other waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. This NWP authorizes activities only by individuals; for this purpose, the term ''individual'' refers to a natural person and/or a married couple, but does not include a corporation, partnership, or similar entity. For the purposes of this NWP, a parcel of land is defined as ''the entire contiguous quantity of land in possession of, recorded as property of, or owned (in any form of ownership, including land owned as a partner, corporation, joint tenant, etc.) by the same individual (and/or his or her spouse), and comprises not only the area of wetlands sought to be filled, but also all land contiguous to those wetlands, owned by the individual and/or his or her spouse in any form of ownership.'' (Sections 10 and 404)

30. Reserved.

31. Reserved.

32. *Completed Enforcement Actions.* Any structure, work or discharge of dredged or fill material, remaining in place, or undertaken for mitigation, restoration, or environmental benefit in compliance with either:

(i) The terms of a final Corps non-judicial settlement agreement fully resolving a violation of section 404 of the Clean Water Act (CWA) and/or section 10 of the Rivers and Harbors Act of 1899 provided that:

(a) The unauthorized activity affected no more than 5 acres of nontidal wetlands or 1 acre of tidal wetlands;

(b) The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity; and

(c) The District Engineer issues a verification letter authorizing the activity subject to the terms and conditions of this nationwide permit and the settlement agreement, including a specified completion date; or

(ii) The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States under section 404 of the CWA and/or section 10 of the Rivers and Harbors Act of 1899. For both (i) or (ii) above, compliance is a condition of the NWP itself. Any authorization under this NWP is automatically revoked if the permittee does not comply with the terms of this NWP or the terms of the court decision, consent decree, or judicial/non-judicial settlement agreement or fails to complete the work by the specified completion date. This NWP does not apply to any activities occurring after the date of the decision, decree, or agreement that are not for the purpose of mitigation, restoration, or environmental benefit. (Sections 10 and 404)

33. *Temporary Construction, Access and Dewatering.* Temporary structures, work and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard, or for other construction activities not subject to the Corps or U.S. Coast Guard regulations. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must be of materials and placed in a manner that will not be eroded by expected high flows. The use of dredged material may be allowed if determined by the District Engineer that it will not cause more than minimal adverse effects on aquatic resources. Temporary fill must be entirely removed to upland areas, or dredged material returned to its original location, following completion of the construction activity and the affected areas restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after cofferdams are removed require a Section 10 permit if located in navigable waters of the United States. (See 33 CFR Part 322). The permittee must notify the District Engineer in accordance with the ''Notification'' general condition. The notification must also include a restoration plan of reasonable measures to avoid and minimize effects to aquatic resources. The District Engineer will add special conditions, where necessary, to ensure that adverse environmental effects are minimal. Such conditions may include: limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods (e.g., construction mats in wetlands where practicable). (Sections 10 and 404)

34. *Cranberry Production Activities.* Discharges of dredged or fill material for dikes, berms, pumps, water control structures or leveling of cranberry beds associated with expansion, enhancement, or modification activities at existing cranberry production operations provided:

a. The cumulative total acreage of disturbance per cranberry production operation, including but not limited to, filling, flooding, ditching, or clearing, does not exceed 10 acres of waters of the United States, including wetlands;

b. The permittee notifies the District Engineer in accordance with the ''Notification'' general condition; and,

c. The activity does not result in a net loss of wetland acreage.

This NWP does not authorize any discharge of dredged or fill material related to other cranberry production activities such as warehouses, processing facilities, or parking areas. For the purposes of this NWP, the cumulative total of 10 acres will be measured over the period that this NWP is valid. (Section 404)

35. *Maintenance Dredging of Existing Basins.* Excavation and removal of accumulated sediment for maintenance of existing marina basins, canals, and boat slips to previously authorized depths or controlling depths for ingress/egress, whichever is less, provided the dredged material is disposed of at an upland site and proper siltation controls are used. (Section 10)

36. *Boat Ramps.* Activities required for the construction of boat ramps provided:

a. The discharge into waters of the United States does not exceed 50 cubic

yards of concrete, rock, crushed stone or gravel into forms, or placement of pre-cast concrete planks or slabs. (Unsuitable material that causes unacceptable chemical pollution or is structurally unstable is not authorized);

b. The boat ramp does not exceed 20 feet in width;

c. The base material is crushed stone, gravel or other suitable material;

d. The excavation is limited to the area necessary for site preparation and all excavated material is removed to the upland; and,

e. No material is placed in special aquatic sites, including wetlands.

Dredging to provide access to the boat ramp may be authorized by another NWP, regional general permit, or individual permit pursuant to Section 10 if located in navigable waters of the United States. (Sections 10 and 404)

37. *Emergency Watershed Protection and Rehabilitation.* Work done by or funded by the Natural Resources Conservation Service qualifying as an ''exigency'' situation (requiring immediate action) under its Emergency Watershed Protection Program (7 CFR Part 624) and work done or funded by the Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 509.13) provided the District Engineer is notified in accordance with the ''Notification'' general condition. (Also see 33 CFR 330.1(e)). (Sections 10 and 404)

38. *Cleanup of Hazardous and Toxic Waste.* Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority provided the permittee notifies the District Engineer in accordance with the ''Notification'' general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste. Activities undertaken by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. (Sections 10 and 404)

39. Reserved.

40. *Farm Buildings.* Discharges of dredged or fill material into jurisdictional wetlands (but not including prairie potholes, playa lakes, or vernal pools) that were in agricultural crop production prior to December 23, 1985 (i.e., farmed wetlands) for foundations and building pads for buildings. The discharge will be limited to the minimum necessary but will in no case exceed 1 acre (see the ''Mitigation'' Section 404 only condition). (Section 404)

The following new NWPs are proposed. For the purposes of proposing these NWPS, we have identified them by letters. If issued, they would be placed at a reserved NWP number or given a new number.

A. *Moist Soil Management for Wildlife.* Discharges of dredged or fill material associated with moist soil management for wildlife and maintenance activities that are performed on non-tidal Federally-owned or managed and State-owned or managed property, for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to: the repair, maintenance or replacement of existing water control structures; the repair or maintenance of dikes; and plowing or discing to impede succession, prepare seed beds, or establish fire breaks. Sufficient vegetated buffers must be maintained adjacent to all open water bodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation. This NWP does not authorize the construction of new dikes, roads, water control structures, etc. associated with the management areas. This NWP does not authorize converting wetlands to uplands or impoundments. (Section 404)

B. *Food Security Act Minimal Effect Exemptions.* (See preamble for discussion).

C. *Minor Mining Activities.* Discharges of dredged material into all waters of the United States for the purpose of mining minerals, aggregates, precious metals and gems as follows:

a. Active sand and gravel mining operations in a defined area, not including any expansions; (i) that were under active mining on August 25, 1993; or (ii) that were previously authorized by a Corps individual permit or NWP verification. (Previous conditions imposed by the Corps will remain in effect unless modified by the District Engineer.) The permittee must notify the District Engineer in accordance with the ''Notification'' general condition. For proposed discharges that may effect special aquatic sites (i.e., wetlands, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, sanctuaries and refuges) the notification must also include a delineation of the affected special aquatic sites. The notification must include evidence of active mining of a defined area on August 25, 1993, or a copy of the Corps permit or NWP verification. The District Engineer will determine the limits of the defined area of active mining for the purposes of this NWP. The District Engineer for specific cases or the Division Engineer for geographic areas, will impose quantity, location, timing, or other restrictions, as necessary, to ensure that the effects are minimal.

b. Recreational mining in accordance with limitations, including quantity, location, timing, or other restrictions established by the Division Engineer to ensure that the effects are minimal. In some cases, a pre-construction notification will be required by the District Engineer to ensure that the effects are minimal. Limitations and restrictions will be proposed by public notice with the opportunity for public comment and to request a public hearing. For the purpose of this NWP, activities can be considered ''recreational'' when they are primarily for personal enjoyment and are not reasonably associated with or an extension of a commercial enterprise.

Note: This NWP does not authorize the excavation of peat deposits that are in waters of the United States to gain access to the minerals, aggregates, precious metals and gems. The discharge of material from the onshore (or onboard) processing of dredged material may require a permit under Section 402 of the Clean Water Act. (Sections 10 and 404)

D. *Maintenance of Existing Flood Control Projects.* Maintenance of existing flood control facilities; including debris basins, retention/detention basins, and channels that were previously authorized by the Corps by individual permit, general permit, or by 33 CFR 330.3 or were constructed by the Corps and transferred to a local sponsor for operation and maintenance. The maintenance may not exceed previously authorized depths and configurations. All dredged material is placed in an upland site or a currently authorized disposal site in waters of the United States, and proper siltation controls are used. The permittee must notify the District Engineer in accordance with the ''Notification'' general condition.

This NWP is for the maintenance of existing flood control projects only. This NWP does not authorize the removal of sediment and associated vegetation from natural water courses. (Sections 10 and 404)

C. Nationwide Permit Conditions

General Conditions

The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. *Navigation.* No activity may cause more than a minimal adverse effect on navigation.

2. *Proper maintenance.* Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

3. *Erosion and siltation controls.* Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date.

4. *Aquatic life movements.* No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

5. *Equipment.* Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.

6. *Regional and case-by-case conditions.* The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and any case specific conditions added by the Corps.

7. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system, while the river is in an official study status unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management).

8. *Tribal rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. *Water quality certification.* In certain states, an individual Section 401 water quality certification must be obtained or waived (see 33 CFR 330.4(c)).

10. *Coastal zone management.* In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. *Endangered Species.* No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service (see 33 CFR 330.4(f)).

12. *Historic properties.* No activity which may affect Historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR 325, appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. *Notification.*

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity:

(1) Until notified by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified by the District or Division Engineer that an individual permit is required; or

(3) Unless 30 days (or 45 days for NWP 26) have passed from the District Engineer's receipt of the notification and the prospective permittee has not received notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Notification.* The notification must be in writing and include the following information:

(1) Name, address and telephone number of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s) or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity; and

(4) *For NWPs 14, 18, 21, 26, 29, 38, and ''C''*, the PCN must also include a delineation of affected special aquatic sites, including wetlands (see paragraph 13(f));

(5) *For NWP 33–Temporary Construction, Access, and Dewatering,* the PCN must also include a restoration plan of reasonable measures to avoid and minimize effects to aquatic resources.

(6) *For NWP 29–Single-Family Housing,* the PCN must also include:

(i) Any past use of this NWP by the individual permittee and/or his or her spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 0.5 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 0.5 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f))

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or his or her spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed.

(7) *For NWP ''C'' Mining Activities* under (a), the PCN must also include:

(i) Evidence of active mining of a defined area on August 25, 1993 or a copy of the Corps permit or NWP verification; and

(ii) The project plan, including the defined area and volume of excavated material.

(8) *For NWP ''D''—Maintenance of Existing Flood Control Projects,* the prospective permittee must either notify the District Engineer with a Pre-Construction Notification (PCN) prior to each maintenance activity or submit a maintenance plan, not to exceed five years. In addition, the PCN must include:

(i) Sufficient evidence to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized provided the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and

(iii) Location of the dredged material disposal site.

(c) *Form of Notification.* The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(8) of General Condition 13. A letter may also be used.

(d) *District Engineer's Decision.* In reviewing the pre-construction notification for the proposed activity, the District Engineer will determine whether the activity will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may, at his option, submit a proposed mitigation plan with the pre-construction notification to expedite the process and the District Engineer will consider any optional mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects are minimal, the District Engineer will notify the permittee and include any agreed upon special conditions and/or mitigation.

Any mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee elects to submit a mitigation plan, the District Engineer will expeditiously review the proposed mitigation plan, but will not commence a second 30-day notification procedure. If the net adverse effects of the project (with the mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant informing him that the project can proceed under the terms and conditions of the nationwide permit.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either: (1) that the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions.

(e) *Agency Coordination.* The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(i) For NWP 14, 21, 26, 29, 33, 37, 38, C, and D. The District Engineer will, upon receipt of a notification, provide immediately (e.g., facsimile transmission, overnight mail or other expeditious manner) a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the National Marine Fisheries Service. With the exception of NWP 37, these agencies will then have 5 calendar days (7 calendar days for NWP 26) from the date the material is transmitted to telephone or fax the District Engineer if they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 10 calendar days (14 calendar days for NWP 26) before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(ii) Optional Agency Coordination. For NWPs 5, 7, 13, 17, 18, 26 (below 1 acre) and 34, where a Regional Administrator of EPA, a Regional Director of USFWS, or a Regional Director of NMFS has formally requested general notification from the District Engineer for the activities covered by any of these NWPs, the Corps will provide the requesting agency with notification on the particular NWPs. However, where the agencies have a record of not generally submitting substantive comments on activities covered by any of these NWPs, the Corps district may discontinue to provide notification to those regional agency offices. The District Engineer will coordinate with the resources agencies to identify which activities involving a PCN that the agencies will provide substantive comments to the Corps. The District Engineer may also request comments from the agencies when the District Engineer determines that such comments would assist in reaching a decision if effects are more than minimal either individually or cumulatively.

(f) *Wetlands Delineations.* Wetland delineations must be prepared in accordance with the current method required by the Corps. For NWP 29 see paragraph (b)(6)(iii) for parcels less than 0.5 acres in size. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 30-day period (45 days for NWP 26) will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

(g) *Mitigation.* Factors that the District Engineer will consider when determining the acceptability of appropriate and practicable mitigation include, but are not limited to:

(i) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of overall project purposes;

(ii) To the extent appropriate, permittees should consider mitigation banking and other forms of mitigation including contributions to wetland trust funds, which contribute to the restoration, creation, replacement, enhancement, or preservation of wetlands. Furthermore, examples of mitigation that may be appropriate and practicable include but are not limited to: reducing the size of the project; establishing buffer zones to protect aquatic resource values; and replacing the loss of aquatic resource values by creating, restoring, and enhancing similar functions and values. In

addition, mitigation must address effects and cannot be used to offset the acreage of wetland losses that would occur in order to meet the acreage limits of some of the NWPs (e.g. 5 acres of wetlands cannot be created to change a 6-acre loss of wetlands to a 1 acre loss; however, the 5 created acres can be used to reduce the effects of the 6-acre loss).

Section 404 Only Conditions

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or fill material and must be followed in order for authorization by the NWPs to be valid:

1. *Water supply intakes.* No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

2. *Shellfish production.* No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by NWP 4.

3. *Suitable material.* No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

4. *Mitigation.* Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e., on-site), unless the District Engineer approves a compensation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures.

5. *Spawning areas.* Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

6. *Obstruction of high flows.* To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

7. *Adverse impacts from impoundments.* If the discharge creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

8. *Waterfowl breeding areas.* Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

9. *Removal of temporary fills.* Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

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Alaska scallop; comments due by 6-28-96; published 5-3-96

Summer flounder; comments due by 6-24-96; published 5-7-96

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Federal Acquisition Streamlining Act of 1994; implementation--

Commercially available off-the-shelf item acquisition; comments due by 6-28-96; published 5-13-96

Late offers consideration; comments due by 6-24-96; published 4-25-96

ENVIRONMENTAL PROTECTION AGENCY

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North Carolina; comments due by 6-24-96; published 5-23-96

Pennsylvania; comments due by 6-28-96; published 6-11-96

Washington; comments due by 6-24-96; published 5-23-96

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State operating permits programs--

Vermont; comments due by 6-27-96; published 5-24-96

Hazardous waste program authorizations:

Kentucky; comments due by 6-24-96; published 5-23-96

Tennessee; comments due by 6-24-96; published 5-23-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Methyl esters of tall-oil fatty acids; comments due by 6-28-96; published 5-29-96

Metolachlor; comments due by 6-24-96; published 5-24-96

FEDERAL COMMUNICATIONS COMMISSION

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Maritime services--

Large cargo and small passenger ships; radio installation inspection; comments due by 6-24-96; published 6-4-96

Radio stations; table of assignments:

Minnesota; comments due by 6-28-96; published 5-14-96

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Virginia; comments due by 6-24-96; published 5-7-96

FEDERAL DEPOSIT INSURANCE CORPORATION

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Banks' conduct of business as government securities brokers or dealers; standards; comments due by 6-24-96; published 4-25-96

Securities transactions; recordkeeping and confirmation requirements; comments due by 6-24-96; published 5-24-96

FEDERAL RESERVE SYSTEM

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Banks conduct of business as government securities brokers or dealers; standards; comments due by 6-24-96; published 4-25-96

Truth in lending (Regulation Z):

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Federal Acquisition Streamlining Act of 1994; implementation--

Commercially available off-the-shelf item acquisition; comments due by 6-28-96; published 5-13-96

Late offers consideration; comments due by 6-24-96; published 4-25-96

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Food and Drug Administration

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Food standards of identity, quality and container fill and common or unusual name for nonstandardized foods; comments due by 6-28-96; published 5-1-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal regulatory review:

Hearing procedures; streamlining; comments

CFR CHECKLIST

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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)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1995 Compilation and Parts 100 and 101)	(869–028–00002–9)	22.00	[1] Jan. 1, 1996
4	(869–028–00003–7)	5.50	Jan. 1, 1996
5 Parts:			
1–699	(869–028–00004–5)	26.00	Jan. 1, 1996
700–1199	(869–028–00005–3)	20.00	Jan. 1, 1996
1200–End, 6 (6 Reserved)	(869–028–00006–1)	25.00	Jan. 1, 1996
7 Parts:			
0–26	(869–028–00007–0)	22.00	Jan. 1, 1996
*27–45	(869–028–00008–8)	11.00	Jan. 1, 1996
46–51	(869–028–00009–6)	13.00	Jan. 1, 1996
52	(869–028–00010–0)	5.00	Jan. 1, 1996
53–209	(869–028–00011–8)	17.00	Jan. 1, 1996
210–299	(869–028–00012–6)	35.00	Jan. 1, 1996
300–399	(869–028–00013–4)	17.00	Jan. 1, 1996
400–699	(869–028–00014–2)	22.00	Jan. 1, 1996
700–899	(869–028–00015–1)	25.00	Jan. 1, 1996
900–999	(869–028–00016–9)	30.00	Jan. 1, 1996
*1000–1199	(869–028–00017–7)	35.00	Jan. 1, 1996
1200–1499	(869–028–00018–5)	29.00	Jan. 1, 1996
1500–1899	(869–028–00019–3)	41.00	Jan. 1, 1996
1900–1939	(869–028–00020–7)	16.00	Jan. 1, 1996
*1940–1949	(869–028–00021–5)	31.00	Jan. 1, 1996
1950–1999	(869–028–00022–3)	39.00	Jan. 1, 1996
2000–End	(869–028–00023–1)	15.00	Jan. 1, 1996
8	(869–028–00024–0)	23.00	Jan. 1, 1996
9 Parts:			
1–199	(869–028–00025–8)	30.00	Jan. 1, 1996
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–028–00027–4)	30.00	Jan. 1, 1996
51–199	(869–028–00028–2)	24.00	Jan. 1, 1996
200–399	(869–028–00029–1)	5.00	Jan. 1, 1996
400–499	(869–028–00030–4)	21.00	Jan. 1, 1996
500–End	(869–028–00031–2)	34.00	Jan. 1, 1996
11	(869–028–00032–1)	15.00	Jan. 1, 1996
12 Parts:			
1–199	(869–028–00033–9)	12.00	Jan. 1, 1996
200–219	(869–028–00034–7)	17.00	Jan. 1, 1996
220–299	(869–028–00035–5)	29.00	Jan. 1, 1996
*300–499	(869–028–00036–3)	21.00	Jan. 1, 1996
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13	(869–028–00039–8)	18.00	Mar. 1, 1996
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200–1199	(869–028–00043–6)	23.00	Jan. 1, 1996
1200–End	(869–028–00044–4)	16.00	Jan. 1, 1996
15 Parts:			
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16 Parts:			
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200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
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150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
*280–399	(869–028–00057–6)	13.00	Apr. 1, 1996
*400–End	(869–028–00058–4)	11.00	Apr. 1, 1996
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
*200–End	(869–028–00061–4)	12.00	Apr. 1, 1996
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
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*500–End	(869–028–00064–9)	32.00	Apr. 1, 1996
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
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170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
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500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
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*300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
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§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
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§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
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§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
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§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
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500–599	(869–028–00102–5)	6.00	[4] Apr. 1, 1990
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43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
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1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
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1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
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125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
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61–71	(869–026–00147–2)	36.00	July 1, 1995
72–85	(869–026–00148–1)	41.00	July 1, 1995
86	(869–026–00149–9)	40.00	July 1, 1995
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425–699	(869–026–00156–1)	30.00	July 1, 1995
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70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
80–End	(869–026–00187–1)	30.00	Oct. 1, 1995
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1 (Parts 1–51)	(869–026–00188–0)	39.00	Oct. 1, 1995
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CFR Index and Findings Aids	(869–028–00051–7)	35.00	Jan. 1, 1996

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[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, 1996. 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 April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.