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Wednesday
September 11, 1996

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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.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 282, 299 and 499

[INS No. 1638–95]

RIN 1115–AD58

Immigration and Nationality Forms

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service's (Service) regulations by updating the listing of forms currently in use by the Service. This revision is necessary to ensure that only current editions of forms listed in the regulations are used and the public has access to correct information concerning public use forms that have been approved for use by the Office of Management and Budget, and forms available for purchase from the Superintendent of Documents. This rule also provides approved Service standards which, when followed, will allow the public to electronically generate Service forms.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Richard A. Sloan, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 ''I'' Street NW., Washington, DC 20536, Telephone: (202) 514–3291.

SUPPLEMENTARY INFORMATION: On May 17, 1994, the Service published an interim rule with request for comments in the Federal Register at 58 FR 25555–25561. The interim rule:

(1) Revised §§ 299.1 and 499.1 by updating the listing of the prescribed forms to be used in compliance with the provisions of Title 8 of the Code of Federal Regulations;

(2) Revised § 299.3 by updating the listing of forms that could be purchased from the Superintendent of Documents, their stock numbers, and prices;

(3) Provided standards in § 299.4 which, when followed, would allow the public to take advantage of the automated technology available in the marketplace to electronically generate Service forms that would be deemed acceptable for processing; and

(4) Revised § 299.5 to reflect current public use forms and their respective Office of Management and Budget (OMB) control numbers.

The comment period for the interim rule ended on July 18, 1994. The Service received comments from five commenters. The following is a discussion of those comments along with the Service's response.

Acceptance of Computer-Generated Form I–20

A majority of the commenters expressed enthusiastic appreciation for the opportunity to utilize laser printed I–20 Forms. One commenter stated that, during peak periods, the computerized forms saved 15 staff hours of processing time per week, and another commenter stated that the productivity of school office staff increased dramatically.

Still another commenter offered congratulations to the Service for addressing the needs and desires of those using our forms and could find nothing to change in the interim rule.

The Service is encouraged by these comments and will continue to try to accommodate the needs of the public while still maintaining our proposed standards.

Non-Acceptance of Computer-Generated Form I–20

One commenter urged the Service to reconsider its utilization of computer-generated Form I–20. The commenter opined that the use of such documents encouraged fraud and suspicion.

The Service appreciates these comments and feels it necessary to reassure this commenter that the computer-generated Form I–20 will be processed by officers of the Service, who are highly trained in detecting fraudulent documents. However, to alleviate these fears, the Service has issued policy guidance to the field which states that those private entities that electronically generate Form I–20 in single page format rather than double sided format, will be required to include the student's name, school, and date of birth in a shaded box on the top of page 4, using the same type size and font style as the body of the form. This policy has been included in § 299.4(b)(1) of this final rule and will continue to allow the private sector to electronically produce the Form I–20 while providing the latest safeguards against fraudulent Form I–20's being submitted.

Other Topics Addressed

Another commenter was very complimentary about the entire change in policy concerning the acceptance of electronically generated forms and suggested that the Service revise the language contained in § 299.4(d) concerning the use of laser printers or near-letter-quality printers. Specifically, this commenter felt that the Service needed to address future changes in printer technologies. The Service concurs with this suggestion and is revising the language in § 299.4(d) to allow for the use of electronic printers that provide near-letter-quality documents to generate electronic forms.

Final Rule

In addition to the changes being incorporated into § 299.4 (b)(1) and (d) of this final rule, the Service is also:

(1) Removing 8 CFR part 282 which includes certain language that is already contained in section 282 of the Immigration and Nationality Act and which will be included in 8 CFR 299.3;

(2) Amending § 299.3 by updating the listing of forms that could be purchased from the Superintendent of Documents, the related stock numbers, and prices;

(3) Amending §§ 299.1 and 299.4 by updating the listing of the prescribed forms to be used in compliance with the provisions of Title 8 of the Code of Federal Regulations;

(4) Amending § 299.4(b)(3) and (e) to remove the office title ''Records Systems Division''; and by

(5) Amending § 299.5 to reflect current public use forms and their respective OMB control numbers.

The new actions to remove 8 CFR part 282 and amending § 299.4(b)(3) and (e) as described above are based on the ''good cause'' exception found at 5 U.S.C. 553(d)(3). These actions will not affect the public and are being done purely for administrative purposes.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is primarily administrative in nature and merely updates the existing forms listings currently contained in Title 8 of the Code of Federal Regulations. In addition, this rule is intended to benefit small entities by providing them with specific standards which, if followed, will enable them to take advantage of existing computer technology available in the marketplace to electronically reproduce Service forms.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

8 CFR Part 282

Forms, Immigration.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

8 CFR Part 499

Citizenship and naturalization, Nationality forms.

Accordingly, the interim rule amending 8 CFR parts 299 and 499 which was published at 59 FR 25555–25561 on May 17, 1994, is adopted as a final rule with the following changes:

PART 282—FORMS FOR SALE TO PUBLIC

1. Part 282 is removed.

PART 299—IMMIGRATION FORMS

2. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

3. Section 299.1 is amended by: a. Removing the entries for Forms ''I–328'' and ''I–591''; and by b. Revising the entries for Forms ''FD–258'', ''G–639'', ''I–102'', ''I–104'', ''I–246'', ''I–551'', ''I–586'', ''I–589'', ''I–602'', ''I–607'', ''I–688'', ''I–688B'', ''I–765'', and ''I–775'' to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	*
FD–258 ...	12–29–82	Applicant Fingerprint Card.
*	*	*
G–639	03–21–94	Freedom of Information Act/Privacy Act Request.
*	*	*
I–102	06–13–95	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document.
I–104	11–01–84	Alien Address Report Card.
*	*	*
I–246	01–15–86	Application for Stay of Deportation.
*	*	*
I–551	01–31–77	Alien Registration Receipt Card.
*	*	*
I–586	04–30–77	Nonresident Alien Border Crossing Card.
I–589	11–16–94	Application for Asylum and for Withholding of Deportation.
*	*	*
I–602	10–01–85	Application by Refugee for Waiver on Grounds of Excludability.
I–607	02–01–72	Order Re Waiver of Excludability Pursuant to Section 212(h), (i) and Permission to Reapply.
*	*	*
I–688	01–01–89	Temporary Resident Card.
*	*	*
I–688B	08–07–93	Employment Authorization Card.
*	*	*
I–765	04–25–95	Application for Employment Authorization.
I–775	05–12–94	Visa Waiver Pilot Program Agreement.
*	*	*

4. The introductory text for § 299.3 is revised to read as follows:

§ 299.3 Forms available from Superintendent of Documents.

The Immigration and Naturalization Service forms listed in this section may be obtained, upon prepayment, from the Superintendent of Documents, who is authorized to print these forms for sale to the public. Prices are set by the Superintendent of Documents, Government Printing Office, and are subject to change without notice. A small supply of these forms shall be set aside by immigration officers for free distribution and official use.

* * * * *

§ 299.3 [Amended]

5. Section 299.3 is amended by removing the entries for Forms ''I–102'', ''I–526'', ''I–600'' and ''I–600A''.

6. Section 299.3 is amended by adding the entries for Forms ''I–765'' and ''I–817'' in proper numerical sequence, to the listing of forms, to read as follows:

§ 299.3 Forms available from the Superintendent of Documents.

* * * * *

Form No.	GPO stock No. (S/N)	Price per 100/pd
*	*	*
I–765	027–002–00441–8	49.00
I–817	027–002–00415–9	36.00
*	*	*

7. Section 299.3 is amended by revising the entries for forms ''I–20MN'', ''I–94 (English)'', ''I–129F'', and ''I–693'', to read as follows:

§ 299.3 Forms available from Superintendent of Documents.

* * * * *

Form No.	GPO stock No. (S/N)	Price per 100/pd
* * * * *		
I–20MN	027–002–00403–5	26.00
* * * * *		
I–94(English)	027–002–00318–7	11.00
* * * * *		
I–129F	027–002–00389–6	26.00
* * * * *		
I–693	027–002–00355–1	43.00
* * * * *		

* * * * *

8. Section 299.4 is amended by:

a. Revising the introductory text in paragraph (b);

b. Revising paragraph (b)(1);

c. Revising paragraph (b)(3);

d. Revising paragraph (d); and by

e. Revising paragraph (e), to read as follows:

§ 299.4 Reproduction of Public Use Forms by public and private entities.

* * * * *

(b) *Requirements for electronic generation.* Public or private entities may electronically generate forms required for applying for a specific benefit, in compliance with the immigration and naturalization regulations, at their own expense. This includes forms that have been made available for purchase by the Superintendent of Documents, as listed in § 299.3 provided that each form satisfies the following requirements:

(1) An electronic reproduction must be complete, containing all questions which appear on the official form. The wording and punctuation of all data elements and identifying information must match exactly. No data elements may be added or deleted. The sequence and format for each item on the form must be replicated to mirror the authorized agency form. Each item must be printed on the same page in the same location. Likewise, multiple-part sets may be printed as single sheets provided that the destination of the carbon copy is clearly identified on the bottom of the form. Private entities must reproduce forms on the same colored paper that is used on the official form. In the case of the Form I–20 A–B/I–20ID, Certificate of Eligibility for Nonimmigrant (F–1) Student Status—For Academic and Language Students, private entities may generate this form in single-page format rather than double-sided format, provided that the student's name, school, and date of birth is printed in a shaded box on the top of page 4 of the form, using the same type size and font style as the body of the form.

* * * * *

(3) The final form must be approved for use by the Director, Policy Directives and Instructions Branch. The form should be mailed to the address listed in paragraph (e) of this section for approval.

* * * * *

(d) Electronic printers that provide for near-letter-quality documents should be used to generate electronic forms. Dot matrix printers that are only capable of producing draft quality documents should not be used for form generation, but may be used for the entry of data in a preprinted form where appropriate.

(e) Any form with poor print quality or other defect which renders it illegible, difficult to read, or displays added or missing data elements, will be rejected by the Service. Any problems regarding the acceptability of a specific electronic version of a particular Service form may be brought to the attention of the Director, Policy Directives and Instructions Branch, 425 ''I'' Street, NW., Room 5307, Washington, DC 20536, telephone number (202) 514–3048.

§ 299.5 [Amended]

9. Section 299.5 is amended by removing the entries for Forms ''I–591'' and ''G–897''.

10. Section 299.5 is amended by:

a. Adding the entries for Forms ''I–847'' and ''I–855'', to the listing of forms, in proper numerical sequence; and by

b. Adding the entries for the ''Telephone Verification System (TVS) Pilot Phase II'' and the ''Generic Clearance of Customer Service Surveys'' immediately after the last entry in the second column, ''INS form title'' to read as follows:

§ 229.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
* * * * *		
I–847	Report of Complaint.	1115–0191
* * * * *		
I–855	ABC Change of Address Form.	1115–0197
* * * * *		
	Telephone Verification System (TVS) Pilot Phase II.	1115–0192
	Generic Clearance of Customer Service Surveys.	1115–0195

PART 499—NATIONALITY FORMS

11. The authority citation for part 499 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

12. Section 499.1 is amended by revising the entries for Forms ''M–288'', ''M–289'', ''M–290'', ''M–291'', ''N–4'', ''N–565'', and ''N–643'' to read as follows:

§ 499.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title and description
M–288	12–30–87	United States History 1600–1987, Level II.
M–289	12–31–87	United States History 1600–1987, Level I.
M–290	01–01–90	U.S. Government Structure, Level II.
M–291	12–31–87	U.S. Government Structure, Level I.
* * * * *		
N–4	12–14–93	Monthly Report—Naturalization Papers Forwarded.
* * * * *		
N–565	11–18–93	Application for Replacement Naturalization/Citizenship Document.
* * * * *		
N–643	05–10–93	Application for Certificate of Citizenship on Behalf of an Adopted Child.
* * * * *		

Dated: August 7, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–23035 Filed 9–10–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–72; Amendment 39–9749; AD 96–19–01]

RIN 2120–AA64

Airworthiness Directives; Allison 250 Series Turbine Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Allison 250 series turbine engines. This action requires initial and repetitive visual inspections of all engine filters for metal particles resulting from premature wear of two bearings produced under Parts Manufacture Approval (PMA) by Superior Air Parts, Inc. In addition, this AD requires replacement of those bearings with bearings that incorporate improved retainers, which constitutes terminating action to the inspection requirements of this AD. This amendment is prompted by a report of a failure during a ground test of an engine with bearings manufactured by Superior Air Parts, Inc. The actions specified in this AD are intended to prevent bearing failure due to bearing separator instability, which can result in subsequent turbine and engine failure.

DATES: Effective September 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 1996.

Comments for inclusion in the Rules Docket must be received on or before November 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–72, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the Rules Docket by using the following Internet address: ''epd-adcomments@mail.hq.faa.gov''. All comments must contain the Docket No. in the subject line of the comment.

The service information referenced in this AD may be obtained from Superior Air Parts, Inc., 14280 Gillis Rd., Dallas, TX 75244–3792; telephone (800) 487–4884, fax (214) 490–8471. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard D. Karanian, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; telephone (817) 222–5195, fax (817) 222–5136.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received a report of a chip detector light on an Allison 250 turboshaft engine during a helicopter flight. The pilot returned to base and the ground crew commenced with an inspection to determine the cause. Metal particles, including silver flakes, were discovered on the chip detector; however, a preliminary inspection failed to determine where the metal particles originated. In accordance with the applicable service instruction, an engine ground run was initiated. Approximately two hours into the ground run, the engine began to vibrate. The ground run was discontinued and the engine was disassembled. An inspection revealed that the No. 5 bearing, part number (P/N) A6871505, produced under Parts Manufacture Approval (PMA) by Superior Air Parts, Inc., had failed. In addition, the FAA has received reports of 5 more incidents where metal particles were found, resulting in the removal of four No. 5 bearings, P/N A6871505, and one No. 8 bearing, P/N A23007152. This condition, if not corrected, could result in bearing failure due to bearing separator instability, which can result in subsequent turbine and engine failure.

The FAA has reviewed and approved the technical contents of Superior Turbine Service Bulletin (SB) No. T95–SB001, Revision A, dated September 29, 1995, and SB No. T95–SB002, Revision A, dated September 29, 1995, that describe procedures for initial and repetitive visual inspections of all engine filters for metal particles resulting from wear of bearing ball retainer.

Since an unsafe condition has been identified that is likely to exist or develop on other Allison 250 series turbine engines of the same type design, this AD is being issued to prevent bearing failure. This AD requires an initial visual inspection within 20 days after the effective date of this AD, followed by repetitive inspections at intervals not to exceed 25 hours time in service (TIS) since last inspection for the first 300 hours TIS of engine operation. After accumulating greater than 300 hours TIS of engine operation, the inspections must be accomplished at intervals not to exceed 100 hours TIS since last inspection. The repetitive inspections must be performed until engine overhaul, or repair or maintenance when disassembly permits replacement of the bearing, whichever occurs first. At that time, remove the No. 5 bearing, Superior P/N A6871505, and replace with a serviceable No. 5 bearing, Allison P/N 6871505; and remove the No. 8 bearing, Superior P/N A23007152, and replace with a serviceable No. 8 bearing, Allison P/N 23031478. The Allison bearings incorporate improved retainers, and Superior Air Parts, Inc. no longer manufactures replacement bearings. Replacement with these serviceable bearings constitutes terminating action to the inspection requirements of this AD. The actions are required to be accomplished in accordance with the SBs described previously.

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

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that

summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–72.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–19–01 Allison: Amendment 39–9749. Docket 95–ANE–72.

Applicability: Allison Model 250–B15G,–B17F, –B17F/1, –B17F/2, –C20, –C20B, –C20F, –C20J, –C20S, –C20W, –R, –C20R/1, –C20R/2, –C20R/4, –C28B, –C28C, –C30, –C30P, –C30M, and –C30G turbine engines, with Superior Air Parts, Inc. Parts Manufacture Approval (PMA) bearings, Part Number (P/N) A6871505 and P/N A23007152, installed. These engines are installed on but not limited to the following aircraft: Aerospace Technologies of Australia PTY Ltd. N–22 and N–24; Agusta S.p.A A109 series, SF600 series; Beech Aircraft Corp. A36 and T34 (Tradewind Turbines conversion); Bell Helicopter Textron Model 47 (Soloy Conversion), OH58 series, 206 series, 230, 430; Cessna 206 and 207 (Soloy Conversions); Enstrom Helicopter Corp. TH28, 480; Eurocopter Deutschland GmbH BO105 series; Eurocopter France AS355 series; Flugzeugwerke Altenrheim AG (FFA) AS202 series; Hiller Aviation UH12 series (Soloy Conversions); Maule Aerospace Technology Corp. MX–7 series; McDonnell Douglas Helicopter Co. OH6 series, 500 series, MD500 series, MD520N series, MD530 series; Partenavia Costruzioni Aeronautiche S.p.A P68 series; Pilatus Britten-Norman Ltd. BN–2T; and Sikorsky Aircraft Division S76 series.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) 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, unless accomplished previously.

To prevent bearing failure due to bearing separator instability, which can result in subsequent turbine and engine failure, accomplish the following:

(a) For engines with No. 5 bearings, Superior P/N A6871505, installed, accomplish the following:

(1) Within 20 days after the effective date of this AD, perform an initial visual inspection of all engine filters for metal particles in accordance with Superior Turbine Service Bulletin (SB) No. T95–SB001, Revision A, dated September 29, 1995. If any engine filter contains metal particles that exceed the return to service criteria described in that SB, prior to further flight, remove the No. 5 bearing, Superior P/N A6871505, and replace with a serviceable No. 5 bearing, Allison P/N 6871505.

(2) Thereafter, for engines with No. 5 bearing, Superior P/N A6871505, installed, perform visual inspections of all engine filters for metal particles in accordance with Superior Turbine SB No. T95–SB002, dated September 29, 1995, and, if necessary, replace with serviceable parts, at intervals not to exceed the following:

(i) For engines with 300 hours or less TIS since overhaul, or TSN if never overhauled, perform inspections at intervals not to exceed 25 hours TIS since last inspection.

(ii) For engines with more than 300 hours TIS since new or overhaul, whichever is lesser, perform inspections at intervals not to exceed 100 hours TIS since last inspection.

(b) For engines with No. 8 bearings, Superior P/N A23007152, installed, accomplish the following:

(1) Within 20 days after the effective date of this AD, perform an initial visual inspection of all engine filters for metal particles in accordance with Superior Turbine SB No. T95–SB002, Revision A, dated September 29, 1995. If any engine filter contains metal particles that exceed the return to service criteria described in that SB, prior to further flight, remove the No. 8 bearing, Superior P/N A23007152, and replace with a serviceable No. 8 bearing, Allison P/N 23031478.

(2) Thereafter, for engines with No. 8 bearing, Superior P/N A23007152, installed, perform visual inspections of all engine filters for metal particles in accordance with Superior Turbine SB No. T95–SB002, dated September 29, 1995, and, if necessary, replace with serviceable parts, at intervals not to exceed the following:

(i) For engines with 300 hours or less TIS since overhaul, or TSN if never overhauled, perform inspections at intervals not to exceed 25 hours TIS since last inspection.

(ii) For engines with more than 300 hours TIS since new or overhaul, whichever is lesser, perform inspections at intervals not to exceed 100 hours TIS since last inspection.

(c) At the next engine overhaul, or repair or maintenance when disassembly permits replacement of the bearing, after the effective date of this AD, whichever occurs first, remove the No. 5 bearing, Superior P/N A6871505, and replace with a serviceable No. 5 bearing, Allison P/N 6871505; and remove the No. 8 bearing, Superior P/N A23007152, and replace with a serviceable No. 8 bearing, Allison P/N 23031478.

(d) Installation of serviceable bearings in accordance with paragraph (c) of this AD, constitutes terminating action to the inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Special Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Special Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Special Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The actions required by this AD shall be done in accordance with the following Superior Turbine service documents:

Document No.	Pages	Revision	Date
SB No. T95–SB001	1–2	A	Sept. 29, 1995.
Total pages: 2.			
SB No. T95–SB002	1–2	A	Sept. 29, 1995.
Total pages: 2.			

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 Superior Air Parts, Inc., 14280 Gillis Rd., Dallas, TX 75244–3792; telephone (800) 487–4884, fax (214) 490–8471. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on September 26, 1996.

Issued in Burlington, Massachusetts, on August 30, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–22922 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–212–AD; Amendment 39–9751; AD 96–19–03]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 and MD–11 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10 and MD–11 series airplanes and KC–10A (military) airplanes, that requires repetitive inspections to detect corrosion or failure of the steel Hi-Lok fasteners at the inboard flap inboard track, and replacement of corroded/failed steel Hi-Lok fasteners with inconel Hi-Lok fasteners. This amendment also provides for termination of the repetitive inspections by replacing all of the steel Hi-Lok fasteners with inconel Hi-Lok fasteners. This amendment is prompted by reports of failed and/or corroded steel fasteners found in the inboard flap inboard track due to stress corrosion. The actions specified by this AD are intended to prevent such stress corrosion, which could result in binding of the flap and inability of the flap to extend or retract; this situation may lead to asymmetric flap deployment and subsequent reduced controllability of the airplane during flight.

DATES: Effective October 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 16, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5224; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10 and MD–11 series airplanes and KC–10A (military) airplanes was published in the Federal Register on April 19, 1996 (61 FR 17261). That action proposed to require repetitive visual inspections to detect corrosion or failure of the steel Hi-Lok fasteners at the inboard flap inboard track. That action also proposed to require replacement of corroded/failed steel Hi-Lok fasteners with inconel Hi-Lok fasteners. In addition, that action proposed to provide for an optional terminating action for the repetitive inspection requirements by replacing all the steel Hi-Lok fasteners with Hi-Lok fasteners made of inconel.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request To Allow Installation of Steel Hi-Lok Fasteners

One commenter requests that the proposal be revised to allow the replacement of corroded or damaged steel fasteners with the same part-numbered steel Hi-Lok fasteners, instead of inconel Hi-Lok fasteners. This commenter raises concerns about the timely availability of replacement fasteners. The commenter points out that procuring inconel Hi-Lok fasteners may entail a lead time of several months, but steel Hi-Lok fasteners are readily available. Mandating the use of only inconel fasteners as replacement parts could result in many aircraft being grounded unnecessarily due to the unavailability of parts.

The FAA concurs with this commenter's request. The FAA finds that an acceptable level of safety will be maintained if failed or corroded steel Hi-Lok fasteners are replaced with like steel fasteners and repetitively inspected. (Additionally, the McDonnell Douglas service bulletins referenced in the AD contain a statement indicating: ''If inconel Hi-Loks are unavailable, operators may use same material steel Hi-Loks as removed.'') This finding, however, does not affect the terminating action provided in this AD, which, if accomplished, requires the replacement of all fasteners with ones made of inconel.

Paragraphs (a)(2)(i) and (b)(2)(i) of the final rule have been revised to allow fasteners to be replaced with either steel or inconel Hi-Lok fasteners (and

repetitively inspected until terminating action is accomplished).

Request To Extend Initial Compliance Time for Model MD–11's

One commenter requests that paragraph (b) of the proposal be revised to extend the compliance time for the initial inspection of Model MD–11 series airplanes from the proposed 18 months to 72 months. As justification for this request, the commenter points out that there have been no reports of failed fasteners on any Model MD–11 airplane; the only reports of failures have occurred on Model DC–10 series airplanes that had accumulated more than 18,000 total flight cycles. In light of this record, the commenter considers an 18-month compliance time unwarranted for the Model MD–11.

The FAA does not concur with the commenter's request. The flap inboard tracks of both the Model MD–11 and Model DC–10 series airplanes are similar in design; they also operate at similar stresses and in similar environments. In light of this, the flaps of the Model MD–11 may experience the same corrosion problems as the Model DC–10 airplanes have experienced. Additionally, stress corrosion is unpredictable; neither the FAA nor McDonnell Douglas can predict the onset of this phenomenon. Therefore, the FAA has determined that it is necessary to begin inspections as early as is reasonably possible.

In developing an appropriate compliance time for the inspections, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of inspecting the fleet at intervals of time that closely parallel normally scheduled maintenance for the majority of affected operators. In consideration of all of these factors, the FAA has determined that the compliance time, as proposed, is not only appropriate, but warranted.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 276 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $33,120, or $120 per airplane, per inspection cycle.

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

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–19–03 McDonnell Douglas: Amendment 39–9751. Docket 95–NM–212–AD.

Applicability: All Model DC–10 and MD–11 series airplanes, and KC–10A (military) airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must 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, unless accomplished previously.

To prevent stress corrosion cracking in the fasteners in the inboard flap inboard track, which could result in binding of the flap and inability of the flap to extend or retract, accomplish the following:

(a) For Model DC–10 series airplanes and KC–10A (military) airplanes: Within 18 months after the effective date of this AD, perform a visual inspection to detect corrosion or failure of the steel Hi-Lok fasteners at the inboard flap inboard track in accordance with McDonnell Douglas Service Bulletin DC–10–57–134, dated August 15, 1995.

(1) If no corrosion or failure is detected, accomplish either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 18 months until paragraph (a)(1)(ii) of this AD is accomplished.

(ii) Replace all steel Hi-Lok fasteners with inconel Hi-Lok fasteners in accordance with McDonnell Douglas Service Bulletin DC–10–57–134, dated August 15, 1995. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD.

(2) If any corrosion or failure is detected, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD, in accordance with McDonnell Douglas Service Bulletin DC–10–57–134, dated August 15, 1995.

(i) Replace all corroded/failed steel Hi-Lok fasteners with either like steel Hi-Lok fasteners or inconel Hi-Lok fasteners, in accordance with the service bulletin. Thereafter, repeat the visual inspection required by paragraph (a) of this AD at intervals not to exceed 18 months until paragraph (a)(2)(ii) of this AD is accomplished.

(ii) Replace all steel Hi-Lok fasteners with inconel Hi-Lok fasteners, in accordance with

McDonnell Douglas Service Bulletin DC–10–57–134, dated August 15, 1995. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of paragraph (a)(2)(i) of this AD.

(b) For Model MD–11 series airplanes: Within 18 months after the effective date of this AD, perform a visual inspection to detect corrosion or failures of the steel Hi-Lok fasteners at the inboard flap inboard track in accordance with McDonnell Douglas Service Bulletin MD11–57–031, dated August 15, 1995.

(1) If no corrosion or failures are detected, accomplish either paragraph (b)(1)(i) or (b)(2)(ii) of this AD.

(i) Repeat the inspection required by paragraph (b) of this AD thereafter at intervals not to exceed 18 months until paragraph (b)(1)(ii) of this AD is accomplished.

(ii) Replace all steel Hi-Lok fasteners with inconel Hi-Lok fasteners in accordance with McDonnell Douglas Service Bulletin MD11–57–031, dated August 15, 1995. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of paragraph (b)(1)(i) of this AD.

(2) If any corrosion or failure is detected during the inspection required by paragraph (b) of this AD, prior to further flight, accomplish either paragraph (b)(2)(i) or (b)(2)(ii) of this AD, in accordance with McDonnell Douglas Service Bulletin MD11–57–031, dated August 15, 1995.

(i) Replace all corroded/failed steel Hi-Lok fasteners with either like steel Hi-Lok fasteners or inconel Hi-Lok fasteners, in accordance with the service bulletin. Thereafter, repeat the visual inspection required by paragraph (b) of this AD at intervals not to exceed 18 months until paragraph (b)(2)(ii) of this AD is accomplished.

(ii) Replace all steel Hi-Lok fasteners with inconel Hi-Lok fasteners in accordance with McDonnell Douglas Service Bulletin MD11–57–031, dated August 15, 1995. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of paragraph (b)(2)(i) of this AD.

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

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

(d) Special flight permits may be issued in accordance with 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.

(e) The inspections and replacement shall be done in accordance with McDonnell Douglas Service Bulletin DC–10–57–134, dated August 15, 1995 (for Model DC–10 series airplanes); and McDonnell Douglas Service Bulletin MD11–57–031, dated August 15, 1995 (for Model MD–11 series airplanes). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 16, 1996.

Issued in Renton, Washington, on September 3, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–22918 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–ANE–55; Amendment 39–9737; AD 96–18–13]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. TFE731 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal Inc. (formerly Garrett Engine Division) TFE731 series turbofan engines, that requires removing certain fan rotor disks from service in accordance with a drawdown schedule, and would establish new fan rotor disk life limits. This amendment is prompted after additional analyses revealed that stress levels in the fan rotor disk dovetail slots for the applicable engine models are higher than initially calculated. The actions specified by this AD are intended to prevent uncontained failure of the fan rotor disk due to fatigue cracking in the dovetail slots, which can result in inflight engine shutdowns, severe secondary damage, and fan rotor assembly separation from the engine.

DATES: Effective November 12, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 12, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Aerospace, Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5246; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal Inc. (formerly Garrett Engine Division) TFE731 series turbofan engines was published in the Federal Register on March 22, 1996 (61 FR 11790). That action proposed to require removing certain fan rotor disks from service in accordance with a drawdown schedule and would establish new fan rotor disk life limits in accordance with AlliedSignal Engines Alert Service Bulletin (ASB) No. TFE731–A72–3569, dated May 31, 1995, and ASB No. TFE731–A72–3570, dated May 31, 1995.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 5,000 engines of the affected design in the worldwide fleet. The FAA estimates that 2,500 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,400,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–18–13 AlliedSignal Inc.: Amendment 39–9737. Docket 95–ANE–55.

Applicability: AlliedSignal Inc. (formerly Garrett Engine Division) Models TFE731–2, –2A, –3, –3A, –3AR, –3B, –3BR, –3C, –3CR, –3D, –3DR, –3R, and –4R turbofan engines, installed on, but not limited to the following aircraft: Avions Marcel Dassault Falcon 10, 50, 100 series; Learjet 31, 35, 36, and 55 series; Lockheed-Georgia 1329–23 and –25 series; Israel Aircraft Industries 1124 series and 1125 Westwind series; Cessna Model 650, Citations III, VI, and VII; Raytheon British Aerospace HS–125 series; and Sabreliner NA–265–65.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) 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, unless accomplished previously.

To prevent uncontained failure of the fan rotor disk due to fatigue cracking in the dovetail slots, which can result in inflight engine shutdowns, severe secondary damage, and fan rotor assembly separation from the engine, accomplish the following:

(a) For engines equipped with fan rotor disks, part numbers (P/N's) 3072162–5, 3073436–5, 3073539-(All), and 3074529-(All), where (All) denotes any dash number, remove fan rotor disks from service and install a serviceable disk in accordance with the Accomplishment Instructions of AlliedSignal Engines Alert Service Bulletin (ASB) No. TFE731–A72–3569, dated May 31, 1995, as required by the following schedule:

Fan rotor disk cycles since new (CSN) on the effective date of this AD	Required fan rotor disk retirement (remove from service)
3,600 or less	Not to exceed the new life limit of 4,100 CSN.
3,601 to 5,500	Within the next 500 cycles after the effective date of this AD or prior to reaching 5,700 CSN, whichever occurs first.
5,501 or greater.	Within the next 200 cycles after the effective date of this AD, not to exceed 7,100 CSN.

(b) For engines equipped with fan rotor disks, P/N 3072816-(All), where (All) denotes any dash number, remove fan rotor disks from service and install a serviceable disk in accordance with Accomplishment Instructions of AlliedSignal Engines ASB No. TFE731–A72–3570, dated May 31, 1995, as required by the following schedule:

Fan rotor disk CSN on the effective date of this AD	Required fan rotor disk retirement (remove from service)
3,850 or less	Not to exceed the new life limit of 4,600 CSN.
3,851 to 6,000	Within the next 750 cycles after the effective date of this AD, or prior to reaching 6,500 CSN, whichever occurs first.
6,001 or greater.	Within the next 500 cycles after the effective date of this AD, not to exceed 10,000 CSN.

(c) A serviceable part is one that has not exceeded the life limits established by this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

(f) The actions required by this AD shall be done in accordance with the following AlliedSignal Engines ASBs:

Document No.	Pages	Revision	Date
TFE731–A72–3569	1–8	Original	May 31, 1995.
Total Pages: 8.			
TFE731–A72–3570	1–8	Original	May 31, 1995.
Total Pages: 8.			

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 AlliedSignal Aerospace, Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box

29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on November 12, 1996.

Issued in Burlington, Massachusetts, on August 26, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–22772 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–10–AD; Amendment 39–9744; AD 96–18–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300–600 series airplanes, that requires inspections to detect cracking of the upper radius of the forward fitting of frame 47, and repair, if necessary. This amendment is prompted by results of full-scale fatigue testing, which revealed cracking in the upper radius of frame 47. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of frame 47 of the fuselage.

DATES: Effective October 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 16, 1996.

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

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300–600 series airplanes was published in the Federal Register on July 1, 1996 (61 FR 33874). That action proposed to require repetitive eddy current inspections to detect cracking of the upper radius of the left and right forward fitting of frame 47, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 35 Airbus Model A300–600 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,400, or $240 per airplane.

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

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–18–18 Airbus Industrie: Amendment 39–9744. Docket 96–NM–10–AD.

Applicability: All Model A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) 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, unless accomplished previously.

To prevent reduced structural integrity of frame 47 of the fuselage, accomplish the following:

(a) Prior to the accumulation of 17,300 total landings, or within one year after the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking of the upper radius of the left and right forward fitting of frame 47, in accordance with Airbus Service Bulletin A300–53–6029, Revision 2, dated November 7, 1994.

(1) If no cracking is found during an eddy current inspection: Repeat the inspection thereafter at intervals not to exceed 6,600 landings.

(2) If any cracking is found during an eddy current inspection: Prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

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

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

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

(d) The inspection shall be done in accordance with Airbus Service Bulletin A300–53–6029, Revision 2, dated November 7, 1994, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3	2	Nov. 7, 1994.
4–6	1	Feb. 23, 1994.
7–22	Original	Aug. 23, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 16, 1996.

Issued in Renton, Washington, on August 29, 1996.

Bill Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–22599 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–ANE–30; Amendment 39–9738; AD 96–18–14]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M Series Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Hartzell Propeller Inc. (Hartzell) HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M series propellers, that requires hub replacement over a 10-year time period with a concurrent blade and blade clamp inspection. This amendment is prompted by reports of two propeller hub failures and one crack indication that occurred on Mitsubishi MU–2B–60 aircraft, the similarity of construction and load transfer paths between the Hartzell propeller models installed on the Mitsubishi MU–2 aircraft and Hartzell's 3, 4, and 5-bladed steel hub propeller models, several blade shank failures, and reports of cracks in blade clamps. The actions specified by this AD are intended to prevent propeller hub, blade, or blade clamp failure, which can result in loss of aircraft control.

DATES: Effective October 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 16, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356–2634, ATTN: Product Support; telephone (513) 778–4388, fax (513) 778–4321. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7031, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Hartzell Propeller Inc. (Hartzell) HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M series propellers was published in the Federal Register on April 26, 1996 (61 FR 18520). That action proposed to require over a 10-year time period, propeller hub replacement with a concurrent blade and blade clamp inspection for Hartzell Propeller Inc. Models HC–A3VF–7(), HC–B3TF–7(), HC–B3MN–3(), HC–B3TN–2(), HC–B3TN–3(), HC–B3TN–5(), HC–B4MN–5(), HC–B4MP–3(), HC–B4TN–3(), HC–B4TN–5(), HC–B5MA–3(), HC–B5MP–3(), HC–B5MP–5(), HC–B3MN–5(), HC–B3TN–4(), HC–B4MP–4(), and HC–B5MN–3() propellers.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Commenters state that the AD should be modified to limit the affected propellers to those installed on engine types similar to those in Mitsubishi MU–2 aircraft. The commenters also state that their service history has shown that this engine type has more problems and that the NPRM documents that only propellers on the Mitsubishi MU–2 aircraft have been found with cracked hubs. The FAA does not concur. Regardless of engine types, the 3, 4, and 5-bladed hubs have similar loading and load paths to the failed propellers and, in addition, could contain characteristics that the FAA has determined can cause a reduction in hub fatigue strength. The NTSB has also recommended addressing the same hub fatigue strength characteristics for the 3, 4, and 5-bladed hubs. This hub replacement program will provide the following hub fatigue strength improvements: (1) Improved hub metallurgy; (2) Elimination of any surface decarburization in the pilot tube bore; (3) Introduction of compressive residual stress in the pilot tube bore; (4) Improved corrosion protection in the pilot tube bore; and (5) Improved surface finish in the pilot tube bore.

Additionally, the commenters state that the cost of complying with the proposed AD is severely understated and will increase overhaul costs. Therefore, they imply that the proposed AD should be withdrawn or limited in scope. The FAA does not concur. The costs documented in the AD are weighted average costs. For example, individual operators with five-bladed propellers will have costs that run higher than the weighted average costs. Therefore, the costs stated in the AD

should not be construed as understated. Concerning the increase in overhaul costs comment, the FAA has determined that the required actions are necessary to address an unsafe condition. While those required actions may increase maintenance costs, those increased costs are balanced by achieving a level of safety that protects against further failures. However, if the operator complies with the proposed AD at overhaul, the cost is lower than accomplishing the AD action by itself.

Since issuance of the NPRM, the FAA has determined that relief can be given to the compliance schedule. Therefore, the dates for hub replacement and inspections are shifted three months for all affected propellers. Table 1 now reflects the denoted three month calendar shift.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 24,320 propellers of the affected design in the worldwide fleet. The FAA estimates that 50% of the subject propellers are installed on aircraft of U.S. registry and that 75% will have the work done during normally scheduled propeller maintenance. For those who accomplish the AD action during normal propeller maintenance, the parts cost will average $1,955 with no additional labor. For those who accomplish the AD action by itself, the parts cost will average $2,174, plus approximately 27 work hours per propeller at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $29,363,360. The cost will vary between the 3, 4, and 5-bladed propeller configurations and the above data represents an average cost.

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

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–18–14 Hartzell Propeller Inc.: Amendment 39–9738. Docket 95–ANE–30.

Applicability: Hartzell Propeller Inc. (Hartzell) Models HC–A3VF–7( ), HC–B3TF–7( ), HC–B3MN–3( ), HC–B3TN–2( ), HC–B3TN–3( ), HC–B3TN–5 ( ), HC–B4MN–5( ), HC–B4MP–3( ), HC–B4TN–3( ), HC–B4TN–5( ), HC–B5MA–3( ), HC–B5MP–3( ), HC–B5MP–5( ), HC–B3MN–5( ), HC–B3TN–4( ), HC–B4MP–4( ), and HC–B5MN–3( ) propellers. These propellers are installed on but not limited to the following aircraft:

Aerospace Technologies of Australia PTY LTD N22B, N24A, N22S;
Air Tractor, Inc. AT–301, AT–302, AT–400, AT–400A, AT–401, AT–402, AT–502, AT–503, AT–802;
Agusta S.p.A. SF600, F.260;
Ayres Corporation S–2R, S2R–T11, S2R–T15, S2R–T34, S2R–T56, S2RHG–T65;
Beech A36, 65–90, 65–90A, C90, B90, E90, C90A, F90, 100, 200, 200C, A200C, B200, B200C, 200T, 200CT, A200CT, B200T, B200CT, 65–80, 65–A90–1, 65–A90–2, 65–A90–4, 99, 99A, A99A, B99, A200, C99, H90, 300, 300LW, B300, B300C, 1900, 1900C, T34C, T34C–1;
Cessna 208, 208A, 208B, 421, 425, 441, 402, P210N;
Construcciones Aeronauticas, S.A. (CASA) C–212–CB, –CC, –CE, –CF;
deHavilland Aircraft Co., Ltd. D.H.114;
deHavilland Inc. DHC–2, DHC–3, DHC–4; DHC–6, 1, 100, 200, 300;
Empresa Brasileira de Aeronautica S/A Embraer EMB–110P1, EMB–110P2;
Fairchild Aircraft, Inc. SA26–AT, –T; SA226–AT, –TB;
Frakes Aviation (Gulfstream American) G–73;
Great Lakes Aircraft Co. 2T–1A;
Helio HST–550, HST–550A;
Industrie Aeronautiche e Meccaniche Piaggio P.166DL3;
Israel Aircraft Industries, Ltd. Arava 101, 101B;
McDonnell Douglas DC–3 series;
McKinnon Enterprises, Inc. (Grumman) G–21E, G21–G;
Mitsubishi MU–2B series;
Pacific Aerospace Corporation, Ltd. FU24–954, FU2A–954;
Partenavia Costruzioni Aeronautiche S.p.A. AP68TP 300, AP68TP 600;
Pilatus Aircraft Ltd. PC–6/A–H2, /B1–H2, /B–H2, /B2–H2, /B2–H4, PC–7;
Piper Aircraft Corporation PA31–T1, –T2, –T3; PA31P; PA42, –42–720, –42–720R;
Prop-Jets, Inc., Interceptor (Aero Commander) (Meyers) 400;
Schweizer Aircraft Corp. (Grumman) G–164A, G–164B, G–164B–34T, –15T, G–164D;
Short Bros. Limited & Harland Ltd. SC–7 series, SD3 series;
Twin Commander Aircraft Corp. 680T, V, 681, 690A, 690B, 690C, 695, 695A;
Weatherly Aviation Company 620TP.

Note 1: The parenthesis that appear in the propeller models indicate the presence or absence of additional letter(s) which vary the basic propeller hub model designation. This airworthiness directive (AD) is applicable regardless of whether these letters are present or absent on the propeller hub model designation.

Note 2: The above is not a complete list of aircraft which may contain the affected Hartzell Propeller Inc. Models HC–A3VF–7( ), HC–B3TF–7( ), HC–B3MN–3( ), HC–B3TN–2( ), HC–B3TN–3( ), HC–B3TN–5( ), HC–B4MN–5( ), HC–B4MP–3( ), HC–B4TN–3( ), HC–B4TN–5( ), HC–B5MA–3( ), HC–B5MP–3( ), HC–B5MP–5( ), HC–B3MN–5( ), HC–B3TN–4( ), HC–B4MP–4( ), and HC–B5MN–3( ) propellers because of installation approvals made by, for example, Supplemental Type Certificate or field approval under FAA Form 337 ''Major Repair and Alteration.'' It is the responsibility of the owner, operator, and person returning the aircraft to service to determine if an aircraft has an affected propeller.

Note 3: This AD applies to each propeller 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 propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (h) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition

described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any propeller from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent propeller hub, blade, or blade clamp failure, which can result in loss of aircraft control, accomplish the following:

(a) This AD requires no action for operators with Hartzell propeller models HC–B4TN–5(D,G,J)L/LT10282(B,K)–5.3R, HC–B4TN–5(D,G,J)L/LT10282N(B,K)–5.3R, and HC–B4TN–5(D,G,J)L/LT10282NS(B,K)–5.3R installed on Mitsubishi MU–2B–26A, –36A, –40, –60; MU–2B–30 modified by Supplemental Type Certificate (STC) SA336GL–D & SA339GL–D; MU–2B–36 Modified by STC SA2413SW and any other MU–2 Series aircraft which have the referenced propeller models installed. These operators must, however, comply with AD 95–01–02.

(b) This AD requires no action for operators with Hartzell propeller models HC–B4TN–3/T10173F(N)(B,K)–12.5 and HC–B4TN–3A/T10173F(N)(B,K)–12.5 installed on Beech A100 and A100A aircraft. These operators must, however, comply with AD 95–03–03.

(c) Disassemble the propeller in accordance with Hartzell Propeller Inc. Service Manual 118F, Revision 2, dated May 1992, pages 15 to 19, for 3- and 4-bladed hub models, and Service Manual 132A, Revision 2, dated June 1992, pages IV–5 to IV–11, for 5-bladed hub models, remove the hub from service, and replace the hub with a serviceable hub in accordance with the compliance schedule in Table 1 of this AD.

(1) Utilize Table 1 of this AD in accordance with the following example: Model HC–B3TN–3( ) series propellers, starting with serial numbers (S/N's) BU1 through BU377, require replacement before the end of March of calendar year 1997. Serial numbers BU378 through BU754 require hub replacement before the end of September of calendar year 1997, and so forth.

(2) The affected hubs can only be replaced with serviceable hubs having a S/N not listed in Table 1 of this AD for that propeller model, or serviceable hubs having a S/N for which replacement is not yet required in accordance with Table 1 of this AD.

(3) Some existing propeller hub S/N's include a suffix letter, such as an ''A.'' The presence or absence of this letter has no significance in determining compliance.

(4) Since a hub may be used in various propeller models, the S/N and the model number shown in Table 1 of this AD may not coincide. Precedence is given to the hub S/N in determining compliance requirements. The hub model is only given as a reference.

(5) Hub replacement must be accomplished by the end of the calendar month indicated at the top of the appropriate column in Table 1 of this AD. The S/N ranges in this table identify the propeller hubs that require replacement by the end of that month.

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Table 1

Hub Model Number	S/N Series	Replacement is due by end of: March 1997	Sept. 1997	March 1998	Sept. 1998	March 1999	Sept. 1999	March 2000	Sept. 2000	March 2001
HC-B3TN-3	BU	1-377	378-754	755-1881	1882-3008	3009-3840	3841-4673	4674-5707	5708-6742	6743-7864
HC-B3MN-3	GB									
HC-B3MN-5	FZ									
HC-B3TN-5	BV	1-86	87-172	173-529	530-885	886-1622	1623-2359	2360-2689	2690-3020	3021-3410
HC-B3TN-4	FK									1
HC-B3TN-2	AG	1-59	60-118	119-174	175-231	232-238				
HC-B3TF-7	EX					1-3	4-7	8-47	48-87	88-112
HC-A3VF-7	DS				1	2-20	21-39	40-109	110-179	180-230
HC-B4TN-5	CD	1-94	95-187	188-663	664-1139	1140-1399	1400-1660	1661-1848	1849-2036	2037-2133
HC-B4TN-3	EA	1-169	170-338	339-437	438-537	538-758	759-979	980-1003	1004-1028	1029-1036
HC-B4MN-5	FL			1-35	36-70	71-238	239-406	407-411	412-416	417-423
HC-B4MP-3	FW					1-15	16-31	32-371	372-711	712-1024
HC-B4MP-4	FU					1-3	4-7		8	
HC-B5MP-5	EZ		1					2	3-4	
HC-B5MA-3	HB							1	2-3	4-28
HC-B5MN-3	ES		1					2-7	8-13	
HC-B5MP-3	EV	1-51	52-101	102-223	224-345	346-478	479-612	613-720	721-826	827-894
HC-B5MP-3	FT			1-3	4-6			7		

Hub Model Number	S/N Series	Replacement is due by end of: Sept. 2001	March 2002	Sept. 2002	March 2003	Sept. 2003	March 2004	Sept. 2004	March 2005	Sept. 2005
HC-B3TN-3	BU	7865-8987	8988-10409	10410-11832	11833-13487	13488-15141	15142-16299	16300-17457	17458-18308	18309-19160
HC-B3MN-3	GB						1-162	163-324	325-361	362-438
HC-B3MN-5	FZ						1-23	24-45	46	
HC-B3TN-5	BV	3411-3600	3601-4035	4036-4270	4271-4523	4524-4776	4777-4809	4810-4843	4844-4945	4946-6022
HC-B3TN-4	FK	2-3								4
HC-B3TN-2	AG	239-244	245-295	296-351	352-447	448-543	544-682	683-821	822-886	887-950
HC-B3TF-7	EX	113-136	137-138	139-140	141-208	209-275	276-330	331-386	387-472	473-558
HC-A3VF-7	DS	231-280	281-313	314-345	346-396	397-446	447-454	455-482	483-496	497-511
HC-B4TN-5	CD	2134-2230	2231-3134	3135-3342						
HC-B4TN-3	EA	1037-1043	1044-1092	1093-1142						
HC-B4MN-5	FL	424-429	430-436	437-1002						
HC-B4MP-3	FW	1025-1338	1339-1393	1394-3033						
HC-B4MP-4	FU									
HC-B5MP-5	EZ		5-6	7-8						
HC-B5MA-3	HB	29-52	53-78	79-1018						
HC-B5MN-3	ES									
HC-B5MP-3	EV	895-961	962-1002	1003-2030						
HC-B5MP-3	FT	8								

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(d) Perform a fluorescent penetrant inspection of blades for cracks in accordance with Hartzell Propeller Inc. Service Bulletin 136H, dated March 12, 1993, prior to installing a serviceable hub.

(e) Perform magnetic particle inspection of blade clamps for cracks in accordance with Hartzell Service Manual 202A, dated March 1993, pages 201 to 215, prior to installing a serviceable hub.

(f) If cracks are found in either the blade or the blade clamps, prior to further flight replace with serviceable blade or blade clamps.

(g) Reassemble the propeller in accordance with Hartzell Propeller Inc. Service Manual 118F, Revision 2, dated May 1992, pages 57 to 96, for 3- and 4-bladed hub models, and Service Manual 132A, Revision 2, dated June 1992, pages VII–1 to VII–46, for 5-blade hub models.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

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

(j) The actions required by this AD shall be done in accordance with the following service documents:

Document No.	Pages	Date
Hartzell Propeller Inc., SB No. 136H	1–18	March 12, 1993.
Total Pages: 18.		
Hartzell Propeller Inc., Service Manual No. 202A	201–215	March 1993.
Total Pages: 15.		
TRW Hartzell Propeller Overhaul Manual, No. 118–E	57, 58	April 1985.
Hartzell Propeller Inc., Manual No. 118F, Revision 2	59, 60	May 1992.
TRW Hartzell Propeller Overhaul Manual No. 119–E	61–83	April 1985.
Hartzell Propeller Inc., Manual No. 118F, Revision 2	84, 84a, 84b	May 1992.
TRW Hartzell Propeller Overhaul Manual No. 118–E	85, 86	April 1985.
Hartzell Propeller Inc., Manual No. 118F, Revision 2	87, 88, 88a, 88b	April 1985, May 1992.
TRW Hartzell Propeller, Overhaul Manual No. 118–E	89–96	April 1985.
Total Pages: 44.		
Hartzell Propeller, Products Division, Instruction Manual No. 132–A	VII–1–VII–30	Sept. 1, 1985.
Hartzell Propeller Inc., Instruction Manual No. 132–A	VII–31	Sept. 1, 1985.
Hartzell Propeller Inc., Manual No. 132A	VII–32	No Date.
Hartzell Propeller, Products Division, Instruction Manual No. 132–A	VII–33–VII–40	Sept. 1, 1985.
Hartzell Propeller Inc., Instruction Manual No. 132–A	VII–41	Sept. 1, 1985.
Hartzell Propeller Inc., Manual No. 132A, Revision #1	VII–42, VII–43	April 1990.
Hartzell Propeller Inc., Instruction Manual No. 132–A	VII–44	Sept. 1, 1985.
Hartzell Propeller Inc., Manual No. 132A, Revision #1	VII–45, VII–46	April 1990.
Total Pages: 46.		

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 Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356–2634, ATTN: Product Support; telephone (513) 778–4388, fax (513) 778–4321. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(k) This amendment becomes effective on October 16, 1996.

Issued in Burlington, Massachusetts, on August 26, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–22770 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–224–AD; Amendment 39–9752; AD 96–19–04]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes. This action requires a one-time inspection to detect cracks of the dimpled lap joints in the fuselage skin, and repair of cracked lap joints. This amendment is prompted by a report indicating that cracks were found at various locations in the outer skin of the dimpled longitudinal lap joints of the fuselage skin. The actions specified in this AD are intended to prevent such cracking, which could result in reduced structural integrity of the fuselage and/or rapid decompression of the airplane.

DATES: Effective September 26, 1996. The incorporation by reference of Fokker Service Bulletin F28/53–144, dated July 15, 1996, as listed in the regulations is approved by the Director of the Federal Register as of September 26, 1996.

The incorporation by reference of Fokker Service Bulletin F28/53–121, Revision 1, dated December 13, 1991, as listed in the regulations, was approved previously by the Director of the Federal Register as of October 8, 1992 (57 FR 40311, September 3, 1992).

Comments for inclusion in the Rules Docket must be received on or before November 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–224–AD, 1601 Lind Avenue SW., Renton, WA 98055–4056.

The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, VA 22314. This

information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA; or at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes. The RLD advises that it recently received a report indicating that, during a walk-around inspection of a Model F28 Mark 4000 series airplane, two cracks were found in the outer skin of the left- and right-hand dimpled longitudinal lap joints of the fuselage skin between stations 15263 and 15733, stringers 16 and 17, and stringers 58 and 59. These cracks were approximately 20 inches long. The exact cause of such cracking is unknown at this time.

Currently, AD 93–13–04, amendment 39–8617 (58 FR 38513, July 19, 1993) requires inspection of these airplanes in the area where the recent cracking was found. The inspection is required to be accomplished in accordance with Item 53–30–08 of the Fokker Structural Integrity Program (SIP) Document 28438. AD 93–13–04 requires that the inspection be accomplished by the time that the airplane has accumulated 32,000 total flight cycles, and that it be repeated thereafter at intervals not to exceed 2,700 flight cycles. However, the subject cracking was found on the affected airplane some 3,520 flight cycles before the airplane had reached inspection threshold of 32,000 flight cycles.

In addition, AD 92–19–02, amendment 39–8359 (57 FR 40311, September 3, 1992), requires modification of the subject area in accordance with Fokker Service Bulletin F28/53–121, prior to the accumulation of 32,000 flight cycles. However, the affected airplane had accumulated only 28,480 total flight cycles; therefore, it had not been modified in accordance with that AD at the time cracking was detected.

Cracking in the outer skin of the left- and right-hand dimpled longitudinal lap joints of the fuselage skin between stations 15263 and 15733, stringers 16 and 17, and stringers 58 and 59, if not corrected, could result in reduced structural integrity of this area of the fuselage and/or rapid decompression of the airplane.

The configuration of the subject area on Fokker Model Mark 1000, 2000, and 3000 series airplanes is identical to that on the affected Model Mark 4000 series airplane. Therefore, all of these models may be subject to this same unsafe condition.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin F28/53–144, dated July 15, 1996. This service bulletin describes procedures for a one-time low frequency eddy current inspection to detect cracks of the dimpled lap joints in the fuselage skin between stringers 16 and 17, stringers 58 and 59, and frames 13345 and 14285. It also describes procedures for submitting a report of the inspection results to Fokker.

Fokker also has issued Service Bulletin F28/53–121, Revision 1, dated December 13, 1991, which describes procedures for repair of cracked dimpled lap joints. The repair consists of cutting out the lap joint and installing a repair plate and shim on the outside of the fuselage. The repair will minimize the possibility of cracks developing in the subject area of the fuselage.

The RLD classified these service bulletins as mandatory and issued Dutch airworthiness directive BLA 1996–081 (A), dated July 24, 1996, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent cracking in the subject area of the fuselage skin, which could result in reduced structural integrity of the fuselage and/or rapid decompression of the airplane. This AD requires a one-time low frequency eddy current inspection to detect cracks of the dimpled lap joints in the fuselage skin between stringers 16 and 17, stringers 58 and 59, and frames 13345 and 14285; and repair, if necessary. After accomplishing the inspection, the AD also requires operators to submit a report of the inspection results to Fokker. The actions are required to be accomplished in accordance with the service bulletins described previously.

Interim Action

This is considered to be interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of cracking; and eventually to determine if additional corrective action is necessary to address the unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

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

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–224–AD.'' The postcard will be date stamped and returned to the commenter.

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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–19–04 Fokker: Amendment 39–9752. Docket 96–NM–224–AD.

Applicability: Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes, serial numbers 11017 through 11241 inclusive; on which Fokker Service Bulletin F28/53–121, Revision 1, dated December 13, 1991, has not been accomplished; 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, unless accomplished previously.

To prevent cracking of the fuselage skin, which could result in reduced structural integrity of the fuselage and/or rapid decompression of the airplane, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time low frequency eddy current inspection to detect cracks of the dimpled lap joints in the fuselage skin between stringers 16 and 17, stringers 58 and 59, and frames 13345 and 14285, in accordance with Fokker Service Bulletin F28/53–144, dated July 15, 1996.

(1) If no crack is detected, no further action is required by this paragraph.

(2) If any crack is detected, prior to further flight, repair the affected lap joint in accordance with Fokker Service Bulletin F28/53–121, Revision 1, dated December 13, 1991. Accomplishment of the repair is considered acceptable for compliance with AD 92–19–02, amendment 39–8359 (57 FR 40311, September 3, 1992), and constitutes terminating action for the inspection identified as item 53–30–08 of the Fokker structural integrity program, which is required by AD 93–13–04, amendment 39–8617 (58 FR 38513, July 17, 1993).

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to Fokker Services, ATTN: Manager Service Engineering Jet Aircraft, P.O. Box 75047, 1117 ZN, Schiphol, The Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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

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

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

(e) The inspection shall be done in accordance with Fokker Service Bulletin F28/53–144, dated July 15, 1996. The replacement shall be done in accordance with Fokker Service Bulletin F28/53–121, Revision 1, dated December 13, 1991. The incorporation by reference of Fokker Service Bulletin F28/53–144, dated July 15, 1996, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of Fokker Service Bulletin F28/53–121, Revision 1, dated July 15, 1996, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of October 8, 1992 (57 FR 40311, September 3, 1992. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 26, 1996.

Issued in Renton, Washington, on September 3, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96– 22917 Filed 9–10–96; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 94–AWA–2]

RIN 2120–AA66

Modification of the Dallas-Fort Worth Class B Airspace Area; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Dallas-Forth Worth (DFW) Class B airspace area. Specifically, this rule raises the upper limit of the DFW Class

B airspace area from 10,000 feet mean sea level (MSL) to 11,000 feet MSL, except in the reconfigured northern and southern sections, and redefines several existing subareas. The FAA is taking this action to improve the flow of aviation traffic and enhance safety in the DFW Class B airspace area while accommodating the concerns of airspace users.

EFFECTIVE DATE: 0901 UTC, October 10, 1996.

FOR FURTHER INFORMATION CONTACT: Bil Nelson, 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:

Background

On December 17, 1991, the FAA published the Airspace Reclassification Final rule (56 FR 65655). This rule discontinued the use of the term ''Terminal Control Area'' and replaced it with the designation ''Class B airspace area.'' This change in terminology is reflected in this final rule.

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service; thereby minimizing the mix of controlled and uncontrolled aircraft. On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points final rule (35 FR 7782). This rule provided for the establishment of Class B airspace areas. To date, the FAA has established a total of 29 Class B airspace areas.

The standard configuration of a Class B airspace area contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limits of the Class B airspace area normally should not exceed 10,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in Paragraph 3000 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document will be subsequently published in the Order.

Related Rulemaking Actions

On June 21, 1988, the FAA published the Transponder with Automatic Altitude Reporting Capability Requirement final rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 nautical miles of any designated Class B primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine driven electrical system, balloons, and gliders.

On October 14, 1988, the FAA published the Class B Airspace Classification and Class B Airspace Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, removed the different classifications of Class B airspace areas, and requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

Public Input

In June, 1992, an ad hoc committee representing a cross section of the aviation community was formed to analyze the DFW Class B airspace area and to develop recommendations for modifying the existing design. The ad hoc committee met regularly at various locations throughout the DFW area for approximately one year, and submitted written comments on modifying the DFW Class B airspace area.

As announced in the Federal Register on October 20, 1993, (58 FR 54073) and on January 31, 1994, (59 FR 4310), pre-NPRM airspace meetings were held on December 8, 1993, in Mesquite, TX, December 13, 1993, in North Richland Hills, TX, April 5, 1994, in North Richland Hills, TX, and April 7, 1994, in Mesquite, TX. These meetings provided local airspace users with an opportunity to present input on the design of the proposed modifications of the DFW Class B airspace area.

On May 10, 1996, the FAA published a notice of proposed rulemaking (NPRM) (61 FR 21910) that proposed modifications to the DFW Class B airspace area. In response to this notice the FAA received four written comments. Recommendations and suggestions from the ad hoc committee, and other comments received in response to the NPRM were considered before making any determination on this final rule. These comments are analyzed below.

Analysis of Comments

One commenter, representing the Texas Soaring Association, believes that the description in the NPRM of Area F did not reflect the FAA's proposal to amend the Class B airspace south of V16/94 to Class E airspace.

The FAA agrees that the description in the NPRM erroneously described Area F. The correct description of Area F will be reflected in this final rule and on the attached graphic.

American Airlines. Air Line Pilots Association (ALPA) and the Aircraft Owner's and Pilots Association support the modification of the DFW Class B airspace area.

The Rule

This amendment to 14 CFR part 71 modifies the DFW Class B airspace area. The modifications are depicted on the attached chart. Specifically, this rule raises the upper limit of the DFW Class B airspace area from 10,000 feet MSL to 11,000 feet MSL, except in the reconfigured northern and southern sections, and redefines several existing subareas. Raising the ceiling to 11,000 feet MSL accommodates arriving traffic using standard instrument arrival routes and departing traffic utilizing standard instrument departure routes into and out of the DFW Metroplex area.

In addition, the FAA amends the airspace south of V16/94 from Class B to Class E airspace. This modification allows GA and other users to traverse along V–16/94 east or westbound while remaining outside the DFW Class B airspace area. This rule realigns the boundaries of the DFW Class B airspace

area to follow Interstate 30 (I–30) and State Highway 303 (SH–303) south of DFW airport that lie north and south of Grand Prairie Municipal Airport, and the Naval Air Station (NAS) Dallas airports. This realignment will assist GA aircraft pilots in identifying the boundaries of the DFW Class B airspace in this area. Additionally, this action raises the floor of the DFW Class B airspace area to 2,000 feet MSL in the vicinity of NAS Dallas, south of Lyndon Baines Johnson Freeway to Forest Lane, and west of Addison Airport to Marsh Lane, and 3,000 feet MSL north of Redbird Airport. Modifying the floors in these areas provides more operational airspace into and out of the Redbird, Grand Prairie Municipal, and NAS Dallas airports.

Further, the FAA is lowering the floor of the DFW Class B airspace area from 5,000 feet MSL to 4,000 feet MSL between 20 and 23 NM west, and raising the floor of the Class B airspace area from 5,000 feet MSL to 6,000 feet MSL between 26 and 30 NM west of DFW. Modifying this Class B airspace will enhance safety and improve the flow of aviation traffic within the DFW Class B area.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 specifies that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this Final Rule: (1) will generate benefits that justify its minimal costs and is not ''a significant regulatory action'' as defined in the Executive Order; (2) is not ''significant'' as defined in the Department of Transportation Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5) will not impose a significant intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

Costs-Benefit Analysis

The FAA has determined that this rule will generate additional benefits in the form of enhanced aviation safety and operational efficiency. The modification of the DFW Class B airspace area will enhance operational efficiency through the promotion of additional operational procedures and aviation safety in the form of the reduced risk of midair collisions in the modified Class B airspace area. This rule is expected to impose little or no costs on the FAA for administrative functions and aircraft operators for additional avionics equipment and circumnavigation. Cost and benefits are discussed below.

Costs

Cost Impact on Aircraft Operators

The modification of the DFW Class B airspace area will not require operators to purchase additional aircraft avionics equipment. Aircraft operators that currently use the airspace area already have Mode C transponders and two-way radio communications equipment; therefore, there will be no additional cost incurred for aircraft avionics equipment. Additionally, the density of air traffic in the DFW airspace area makes it highly unlikely that VFR traffic will transit this airspace without two-way radio equipment.

The final rule also will result in a small increase in cost for pilots who wish to remain clear of the expanded DFW Class B airspace area. As the result of this rule, the potentially impacted pilots are expected to make a small deviation from their current flight paths to avoid the expanded Class B airspace area. This assessment is based on the belief that the impacted pilots will only have to climb an additional 1,000 feet MSL. This deviation will require an additional 5 to 10 minutes of flight time. This modification does not change the 30 mile circumference of the DFW Class B airspace area.

Cost Impact on the FAA

The final rule will not impose any additional administrative costs on the FAA for either personnel or equipment. Projected increases in traffic volume will be absorbed by current personnel and equipment resources through more efficient operational procedures (for example, sequencing and separation of aircraft services). Revising aeronautical charts to reflect the change in the Class B airspace area will not add to the cost of the routine and periodic updating of the charts.

Benefits

Enhanced Aviation Safety

The FAA has determined the modification of the DFW Class B airspace area is in the best interest of flight safety and will result in a greater degree of protection for the greatest number of people during flight in the terminal area. A reduction in probability of midair collisions will stem from increased control in those areas where Class B airspace will be modified. Based on the FAA's Terminal Area Forecast, total aircraft operations at the DFW International Airport were about 870,000 in 1995 up from 550,000 in 1985 and are projected to increase to about 1,000,000 by the year 2000. Also, passenger enplanements were estimated to be 27 million in 1995 up from 18 million in 1985 and are projected to increase to about 35 million by the year 2000. In lieu of the projected increase for total operations and passenger enplanements, the FAA has determined this final rule will enhance safety by lowering the potential risk of midair collisions.

Enhanced Operational Efficiency

The FAA has determined the final rule will enhance aircraft operational efficiency. The final rule will raise the airspace ceiling to meet the increasing air traffic requirements flowing in and out of DFW via standard instrument arrival and departure routes, or alternative Air Traffic Control (ATC) instructions. This assessment of the enhancement in operational efficiency is based on the FAA's assumption that improvements in traffic flow will occur because air traffic controllers will be better able to handle the increasing number of operations at the DFW International Airport. Further, the FAA contends that this enhancement will stem from an increase in airspace area capacity. This modification will enable ATC to have the capability of providing additional spacing and sequencing of aircraft. The final rule's configuration increases the airspace area for high performance aircraft, while allowing non-participating aircraft to access certain airways above 11,000 feet MSL. Additionally, this modification of Class B airspace identifies additional airspace for large turbojet aircraft operations in the DFW airspace area.

International Trade Impact Assessment

The final rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States. This modification will not impose any additional costs on aircraft operators or aircraft manufacturers in the United States or foreign countries. The modification of the Class B airspace area will only affect U.S. terminal airspace operating procedures at and in

the vicinity of DFW. The modification will not have international trade ramifications because it is a domestic airspace matter that will not impose additional costs or requirements on affected entities.

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 Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a final rule will have ''a significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA.

The small entities that potentially maybe affected by this final rule are unscheduled air taxi operators for hire that own nine or fewer aircraft operating in the vicinity of the DFW Class B airspace area. Only unscheduled aircraft operators without the capability to operate under IFR conditions will be potentially impacted by the final rule. The FAA contends that the unscheduled air taxi operators that the final rule may potentially affect are already equipped to operate under IFR conditions. The FAA has concluded that the potentially impacted operators regularly fly to airports where radar approach control services have already been established such as the DFW Class B airspace area; therefore, there will be no additional cost to these entities. The FAA does not anticipate any adverse impacts to occur as a result of the final rule. The FAA has concluded that the final rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandate Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to extent permitted by law, to prepare a written assessment of effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that among other things, provides for notice for potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

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 (44 U.S.C. 3507 *et seq.*).

Federalism Implications

This rule will not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41695; October 30,1987), it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this regulation is not a ''significant regulatory action'' under Executive Order 12866. In addition, the FAA certifies that this regulation 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 regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis and Review of Regulations. A final regulatory evaluation, including a final Regulatory Flexibility Determination and International Trade Impact Assessment, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Amendment

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 3000—Subpart B-Class B Airspace

* * * * *

ASW TX B Dallas-Fort Worth, TX [Revised]

Dallas-Fort Worth International Airport
(Primary Airport)
(lat. 32°53′49″ N., long. 97°02′33″ W.)
Dallas-Fort Worth VORTAC
(lat. 32°51′57′ N., long. 97°01′41″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 11,000 feet MSL beginning at the intersection of the DFW VORTAC 10-mile arc and Josey Lane, thence southbound on Josey Lane to Forest Lane, thence eastbound on Forest Lane until I–635 (that also coincides with the DFW VORTAC 15-mile arc), extending clockwise on the DFW VORTAC 15-mile arc until the DFW VORTAC 129° radial 15-mile DME fix, thence northwest on the DFW VORTAC 129° radial until I–30, extending west on I–30 until the DFW VORTAC 7-mile arc, thence clockwise on the DFW VORTAC 7-mile arc until the DFW VORTAC 310° radial 7-mile DME fix, extending northwest on the DFW VORTAC 310° radial until the DFW VORTAC 310° radial 10-mile DME fix, and extending clockwise on the DFW VORTAC 10-mile arc to the point of beginning.

Area B. That airspace extending upward from 2,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 310° radial 10-mile DME fix, thence southeast on the DFW VORTAC 310° radial until the DFW VORTAC 310° radial 7-mile DME fix, extending counterclockwise on the DFW VORTAC 7-mile arc until I–30, thence eastbound on I–30 to the DFW VORTAC 129° radial, thence southeast on the DFW VORTAC 129° radial until the DFW VORTAC 129° radial 10-mile DME fix, extending clockwise on the DFW VORTAC 10-mile arc until SH–303, thence west on SH–303 until the DFW VORTAC 10-mile DME arc, and extending clockwise on the DFW VORTAC

10-mile arc to the DFW VORTAC 300° radial 10-mile DME fix, thence northwest on the 300° radial until the DFW VORTAC 300° 13-mile DME fix, extending clockwise on the DFW VORTAC 13-mile arc until the DFW VORTAC 023° radial 13-mile DME fix, thence southeast on the DFW VORTAC 023° radial until the DFW VORTAC 023° radial 10-mile DME fix, extending counterclockwise on the DFW VORTAC 10-mile arc to the DFW VORTAC 310° 10-mile DME fix; and that airspace extending upward from 2,000 feet MSL to and including 11,000 feet MSL beginning at the intersection of the DFW VORTAC 10-mile arc and Josey Lane, thence southbound on Josey Lane to Forest Lane, thence eastbound on Forest Lane to I–635, thence westbound on I–635 to the DFW VORTAC 10-mile arc, and extending counterclockwise on the DFW VORTAC 10-mile arc to the point of beginning.

Area C. That airspace extending upward from 2,500 feet MSL to and including 11,000 feet MSL beginning at the intersection of the DFW VORTAC 15-mile arc and I–635, extending clockwise on the DFW VORTAC 15-mile arc until the DFW VORTAC 129° radial 15-mile DME fix, thence southeast on the DFW VORTAC 129° radial until the DFW VORTAC 129° radial 20-mile DME fix, extending counterclockwise on the DFW VORTAC 20-mile arc until I–635, and extending northwest along I–635 to the point of beginning.

Area D. That airspace extending upward from 3,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 300° radial 10-mile DME fix, extending counterclockwise on the DFW VORTAC 10-mile arc to SH–303, thence eastbound on SH–303 until the DFW VORTAC 10-mile arc, extending counterclockwise on the DFW VORTAC 10-mile arc to the DFW VORTAC 129° radial, thence southeast along the DFW VORTAC 129° radial until the DFW VORTAC 129° radial 20-mile DME fix, extending clockwise on the DFW VORTAC 20-mile arc until the DFW VORTAC 217° radial, thence northeast on the DFW VORTAC 217° radial until the DFW VORTAC 217° radial 13-mile DME fix, extending clockwise along the DFW VORTAC 13-mile arc to the DFW VORTAC 300° radial 13-mile DME fix, and thence southeast on the DFW VORTAC 300° radial to the point of beginning; and that airspace extending upward from 3,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 300° radial 13-mile DME fix, thence northwest on the DFW VORTAC 300° radial until the DFW VORTAC 300° radial 20-mile DME fix, extending clockwise on the DFW VORTAC 20-mile arc until I–635, extending northwest along I–635 until the DFW VORTAC 10-mile arc, extending counterclockwise on the DFW VORTAC 10-mile arc until the DFW VORTAC 023° radial 10-mile DME fix, thence northeast on the DFW VORTAC 023° radial until the DFW VORTAC 023° radial 13-mile DME fix, and extending counterclockwise on the DFW VORTAC 13-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 217° radial 20-mile DME fix, extending counterclockwise on the DFW VORTAC 20-mile arc until the DFW VORTAC 300° radial 20-mile DME fix, thence southeast on the DFW VORTAC 300° radial until the DFW VORTAC 300° radial 13-mile DME fix, extending counterclockwise on the DFW VORTAC 13-mile arc until the DFW VORTAC 217° radial 13-mile DME fix, thence southwest on the DFW VORTAC 217° radial until the DFW VORTAC 217° radial 20-mile fix, extending clockwise on the DFW VORTAC 20-mile arc until I–820, thence west and north on I–820 until the DFW VORTAC 23-mile arc, extending clockwise on the DFW VORTAC 23-mile arc until SH–156, thence northeast on SH–156 until the DFW VORTAC 329° radial, thence northwest on the DFW VORTAC 329° radial until intercepting a line defined by the DFW VORTAC 041° radial 30 DME fix and the DFW VORTAC 315° radial 30 DME fix, thence east along that line defined by the DFW VORTAC 041° radial 30 DME fix and the DFW VORTAC 315° radial 30 DME fix until the DFW VORTAC 30-mile arc, extending clockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 138° radial 30-mile DME fix, thence west until the DFW VORTAC 217° radial 28.3 mile DME fix, and thence northeast on the DFW VORTAC 217° radial until the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL, to and including 10,000 feet MSL beginning at the DFW VORTAC 138° 30-mile DME fix, extending clockwise on the DFW VORTAC 30-mile DME arc until the DFW VORTAC 149° radial 30-mile DME fix, thence west to the DFW VORTAC 210° radial 30-mile DME fix, extending clockwise on the DFW VORTAC 30-mile DME arc until the DFW VORTAC 217° radial 30-mile DME fix, thence northeast on the DFW VORTAC 217° radial to the 28.3-mile DME fix and then east on a line to the point of the beginning, and that airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL beginning at the DFW VORTAC 315° radial 30-mile DME fix, extending clockwise on the DFW VORTAC 30-mile arc until the DFW 336° radial 30-mile DME fix, thence east until the DFW VORTAC 020° radial 30-mile DME fix, extending clockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 041° radial 30-mile DME fix, and thence west on a line until the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL, up to and including 11,000 feet MSL beginning at the DFW VORTAC 315° radial 30-mile DME fix, extending counterclockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 293° radial, thence southeast on the DFW VORTAC 293° radial until the DFW VORTAC 26-mile DME fix, extending counterclockwise on the DFW VORTAC 26-mile arc until SH–377, thence southwest on SH–377 until the DFW VORTAC 30-mile arc, and counterclockwise to the DFW VORTAC 217° radial 30-mile DME fix, thence northeast on the DFW VORTAC 217° radial until the DFW VORTAC 20-mile arc, extending clockwise on the 20-mile arc until I–820, thence west and north on I–820 until the DFW VORTAC 23-mile arc, thence clockwise on the DFW VORTAC 23-mile arc until SH–156, extending northeast on SH–156 to the DFW VORTAC 329° radial, thence northeast on the DFW VORTAC 329° radial, until intercepting a line defined by the DFW VORTAC 041° radial 30-mile DME fix and the DFW VORTAC 315° radial 30-mile DME fix, thence west along that line until the point of beginning.

Area H. That airspace extending upward from 6,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 293° radial 30-mile DME fix, thence southeast on the DFW VORTAC 293° radial until the DFW VORTAC 293° radial 26-mile DME fix, extending counterclockwise on the DFW VORTAC 26-mile arc until SH–377, thence southwest on SH–377, until the DFW VORTAC 30-mile arc, and extending clockwise on the DFW VORTAC 30-mile arc until the point of the beginning.

* * * * *

Issued in Washington, DC, on September 3, 1996.

Jeff Griffith,

Program Director for Air Traffic Airspace Management, ATA–1.

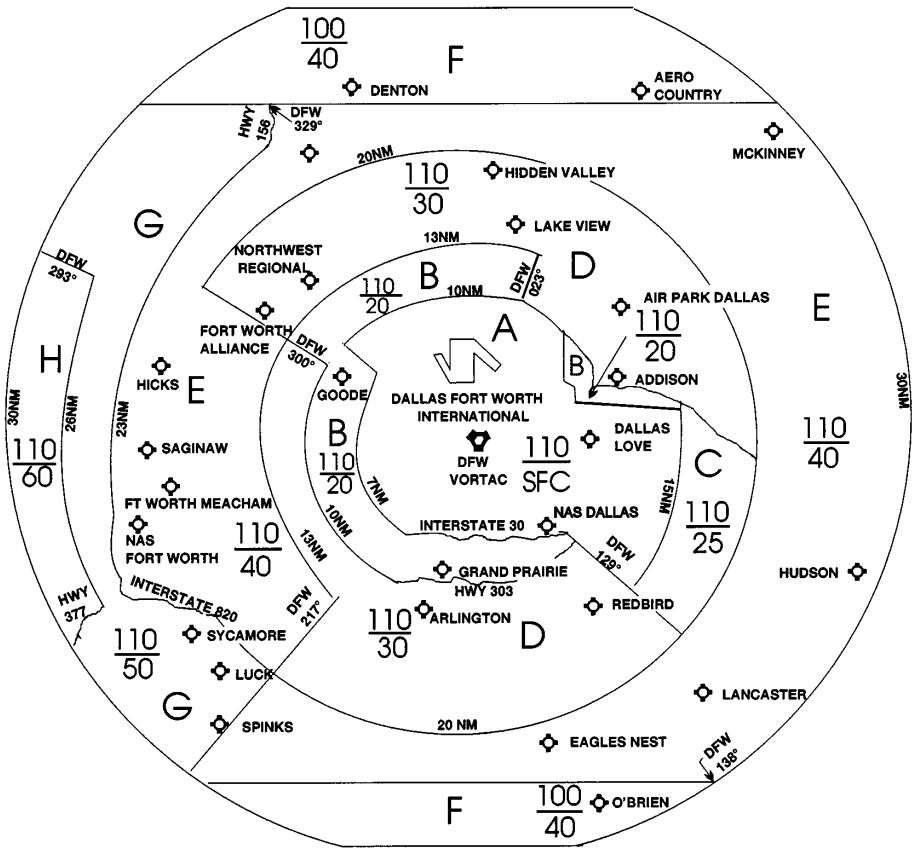
Note: This appendix will not appear in the Code of Federal Regulations. Appendix—Dallas-Fort Worth International Airport Class B Airspace Area.

BILLING CODE 4910–13–P

DALLAS/FORT WORTH INTERNATIONAL AIRPORT

CLASS B AIRSPACE AREA

(NOT TO BE USED FOR NAVIGATION)



Prepared by the

FEDERAL AVIATION ADMINISTRATION

Air Traffic Publications

ATX-420

BILLING CODE 4910–13–C

[FR Doc. 96–23247 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 960313071–6237–03; I.D. 050996D]

RIN 0648–AI20

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Consolidation of Regulations

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

ACTION: Final rule.

SUMMARY: NMFS adopts as final with one correction an interim final rule published July 3, 1996, which consolidated 11 CFR parts into one new CFR part and amended references to the Paperwork Reduction Act (PRA) information-collection requirements. The new part contains regulations implementing management measures contained in the fishery management plans (FMPs) for the following domestic fisheries in the Caribbean, Gulf of Mexico, and South Atlantic: Caribbean coral, Caribbean reef fish, Caribbean spiny lobster, Gulf red drum, Gulf reef fish, Gulf shrimp, Gulf and South Atlantic coastal migratory pelagics, Gulf and South Atlantic corals, South Atlantic red drum, South Atlantic snapper-grouper, and South Atlantic shrimp. The intended effect of this final rule is to make the regulations more concise, better organized, more uniform among fisheries, and thereby easier for the public to use.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Perry Allen, 813–570–5326.

SUPPLEMENTARY INFORMATION: Domestic fisheries in the Caribbean, Gulf of Mexico, and South Atlantic are managed under FMPs prepared by the Caribbean, Gulf of Mexico, and/or South Atlantic Fishery Management Councils under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). As part of the President's Regulatory Reinvention Initiative, the interim final rule (61 FR 34930, July 3, 1996) consolidated 11 sets of regulations into one new CFR part, 50 CFR part 622 and made concomitant amendments to the references for PRA requirements. The background and rationale for this action and explanations of changes that were made to improve uniformity among the regulations were included in the interim final rule and are not repeated here.

The interim final rule provided a 30-day comment period for the public to identify any significant, unforeseen regulatory effects. No comments were received. Accordingly, that part of the interim final rule that adds part 622 to 50 CFR Chapter VI is adopted as final without change. That part of the interim final rule that amends the references to the PRA information-collection requirements is adopted as final with one correction. Specifically, the control number for the OMB-approved dealer recordkeeping and reporting requirements, 0648–0013, was omitted in the listing of OMB control numbers where it applies to 50 CFR 622.15. This final rule corrects that omission.

Classification

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

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 4, 1996.

N. Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, the interim final rule amending 15 CFR part 902 and 50 CRF part 622 that was published at 61 FR 34930 on July 3, 1996, is adopted as final with the following change.

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

§ 902.1 [Corrected]

2. In § 902.1, paragraph (b) table, in the entries for 50 CFR, in the right column, corresponding to entry 622.15 in the left column, the entry ''–0262.'' is corrected to read ''–0013 and –0262.''.

[FR Doc. 96–23040 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8677]

RIN 1545–AU35

Consolidated Returns—Limitations on the Use of Certain Losses and Deductions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to the final and temporary regulations.

SUMMARY: This document contains corrections to the final and temporary regulations (TD 8677) which were published in the Federal Register on Thursday, June 27, 1996 (61 FR 33321). The final and temporary regulations relate to the deductions and losses of members and also to the carryover and carryback of losses to consolidated and separate return years and to the built-in deduction rules.

EFFECTIVE DATE: June 27, 1996.

FOR FURTHER INFORMATION CONTACT: David Friedel (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of these corrections are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations (TD 8677) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 8677) which are the subject of FR Doc. 96–15823 is corrected as follows:

PART 1—[CORRECTED]

1. On page 33322, column 3, under the authority citation for Part 1, the entry ''Section 1.1502–1T also issued under 26 U.S.C. 1502'' is corrected to read ''Section 1.1502–1 also issued under 26 U.S.C. 1502''.

2. On page 33322, column 3, under the authority citation for Part 1, the

entry ''Section 1.1502–79T also issued under 26 U.S.C. 1502'' is corrected to read ''Section 1.1502–79 also issued under 26 U.S.C. 1502''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–23087 Filed 9–10–96; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8675]

RIN 1545–AR04

Modifications of Debt Instruments; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 8675) which were published in the Federal Register on Wednesday, June 26, 1996 (61 FR 32926). The final regulations relate to the modification of debt instruments.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. Kelly, (202) 622–3930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 1001 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8675) contain an error which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8675) which are the subject of FR Doc. 96–15830 is corrected as follows:

§ 1.1001–3 [Corrected]

On page 32935, column 3, § 1.1001–3(g), paragraph (iv) of *Example 5.*, line 8, the language ''(e)(4)(i)(E) of this section and is a significant'' is corrected to read ''(e)(4)(i)(C) of this section and is a significant''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–23085 Filed 9–10–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–96–051]

RIN 2115–AE46

Special Local Regulations; Hilton Head, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the U.S. Offshore World Championship Power Boat Races. The event will be held from 11 a.m. to 4 p.m. EST (Eastern Standard Time) on October 30–November 2, 1996 on the Atlantic Ocean at Hilton Head Island, SC. These regulations are necessary to provide for the safety of life on the navigable waters during the event.

EFFECTIVE DATES: This rule is effective from 10 a.m. to 5 p.m. EST, daily, on October 30 to November 2, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for copying and inspection at U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401–1817, between 8 a.m. and 3 p.m. EST, except federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS M. DaPonte, U.S. Coast Guard Group Charleston, SC at (803) 724–7621.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations. Following normal rulemaking procedures would have been impracticable, since there is not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Discussion of Regulations

Temporary special local regulations are being adopted for the U.S. Offshore World Championship Power Boat Races. The event will be held from 11 a.m. to 4 p.m. EST on October 30–November 2, 1996 on the Atlantic Ocean at Hilton Head Island, SC. There will be approximately between 60–90 event participants racing high performance power boats on a fixed course. The event will take place on the portion of the Atlantic Ocean at Hilton Head Island, SC, between Forest Beach and Port Royal Plantation, approximately 2 miles off shore on a ¼ mile wide oval race course. This rule is required to provide for the safety of life on the navigable waters during the running of the U.S. Offshore World Championship Power Boat Races.

A regulated area is established on that portion of the Atlantic Ocean, at Hilton Head Island, SC, starting at Port Royal Plantation at 32°12.9′ N, 080°40.2′ W, 1 thence east to 32°12.9′ N, 080°39.7′ W, thence southeast to 32°10.2′ N, 080°36.8′ W, thence southwest to 32°03.3′ N, 080°42.5′ W northwest to Forest Beach at 32°07.0′ N, 080°46.9′ W. All coordinates referenced use Datum: NAD 1983.

A spectator viewing area is also established on that portion of the Atlantic Ocean, at Hilton Head Island, SC, between the regulated area described above, and the following points, commencing at Port Royal Plantation at 32°13.5′ N, 080°40.3′ W, thence east to 32°13.5′ N, 080°38.3′ W, thence southeast to 32°10.2′ N, 080°36.4′ W, thence southwest to 32°02.5′ N, 080°42.4′ W, thence northwest to Forest Beach at 32°06.8′ N, 080°48.5′ W. All coordinates referenced use Datum: NAD 1983.

Entry into the regulated area by other than authorized event participants or official patrol vessels is prohibited, unless otherwise authorized by the Patrol Commander. Spectator vessels may anchor or transit the spectator viewing area at a slow, no wake speed during the event.

Regulatory Evaluation

This event is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6 (a) and (f) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The regulated area encompasses less than 54 square nautical miles on the Atlantic Ocean between Forest Beach and Port Royal Plantation, out to approximately 6 nautical miles to sea, which movement into the regulated area will be controlled for only seven hours on each day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small

entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2. of Commandant Instruction M16475.1B. In accordance with that section, this action has been environmentally assessed (EA completed), and the Coast Guard has determined the event to be categorically excluded from further environmental documentation. An environmental checklist and a Categorical Exclusion Determination has been prepared and are available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

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

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, the Coast Guard amends as follows:

1. The authority citation for Part 100 continues to read as follows:

PART 100—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T96–051 is added to read as follows:

§ 100.35–T96–051 Special Local Regulations; Atlantic Ocean at Hilton Head Island, SC.

(a) *Definitions*:

(1) Regulated Area. A regulated area is established on that portion of the Atlantic Ocean, at Hilton Head Island, SC, starting at Port Royal Plantation at 32°12.9′N, 080°40.2′W, thence east to 32°12.9′N, 080°39.7′W, thence southeast to 32°10.2′N, 080°36.8′W, thence southwest to 32°03.3′N, 080°42.5′W northwest to Forest Beach at 32°07.0′N, 080°46.9′W. All coordinates referenced use Datum: NAD 1983.

(2) Spectator Viewing Area. A spectator viewing area is also established on that portion of the Atlantic Ocean, at Hilton Head Island, SC, between the regulated area described above, and the following points, commencing at Port Royal Plantation at 32°13.5′N, 080°40.3′W, thence east to 32°13.5′N, 080°38.3′W, thence southeast to 32°10.2′N, 080°36.4′W, thence southwest to 32°02.5′N, 080°42.4′W, thence northwest to Forest Beach at 32°06.8′N, 080°48.5′W. All coordinates referenced use Datum: NAD 1983.

(3) Coast Guard Patrol Commander. The Coast Guard Patrol Commander is a commissioned, warrant or petty officer of the Coast Guard who has been designated in writing by the Commander, Coast Guard Group Charleston, South Carolina.

(b) *Special local regulations*.

(1) Entry into the regulated area by other than authorized event participants or official patrol vessels is prohibited, unless otherwise authorized by the Patrol Commander.

(2) Spectator vessels may anchor or transit the spectator viewing area at a slow, no wake speed during the event.

(3) At the conclusion of the U.S. World Championship power boat races each day, at the discretion of the Coast Guard Patrol Commander, all vessels may enter the regulated area.

(c) *Effective Dates*. These regulations become effective at 10 a.m. to 5 p.m., daily, on October 30 to November 2, 1996, unless otherwise specified in the Seventh Coast Guard District Local Notice to Mariners.

Dated: August 28, 1996.

J.D. Hull,

Captain. U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 96–23244 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD13–96–028]

RIN 2115–AA97

Safety Zone Regulations; Bellingham Bay, Bellingham, WA

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is permanently amending a safety zone regulation for the annual Fourth of July Blast Over Bellingham Fireworks Display in Bellingham Bay, Bellingham, Washington. Changes made to this regulation will revise the boundaries of the safety zone. This change is intended to better inform the boating public and to improve the level of safety at this event.

EFFECTIVE DATE: This rule is effective on December 10, 1996, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before November 12, 1996.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Marine Safety Office Puget Sound 1519 Alaskan Way South, Seattle, WA 98134 (Telephone: (206) 217–6237). The comments and other materials referenced in this notice will be available for inspection and copying at the above address in Building 1. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) J. B. Roberts, Port Services Department, U.S. Coast Guard MSO Puget Sound Seattle, WA (Telephone: (206) 217–6237).

SUPPLEMENTARY INFORMATION:

Request for Comments

Any comments must identify the name and address of the person submitting the comment, specify the rulemaking docket (CGD13–96–028) and the specific section of this rule to which each comment applies, and give the reason for each specific comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no

adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **EFFECTIVE DATE** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the Federal Register stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the Federal Register to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered ''adverse'' if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

The annual Fourth of July Blast Over Bellingham is held on the waters of Bellingham Bay each year from 9:30 p.m. (PST) to 11 p.m. (PST) on July fourth and is sponsored by the Whatcom County Chamber of Commerce. Under current Coast Guard regulations, 33 CFR § 165.1304, a safety zone regulation is established each year during the event to provide for public safety by keeping spectators away from the fireworks launching site during the fireworks display.

The current regulations do not accurately reflect the current location of the fireworks launching site and the area surrounding this site.This direct final rule will amend the description of the safety zone created by 33 CFR 165.1304 to accurately reflect the current fireworks launching site and better provide for the safety of spectators and property in the immediate vicinity of the event.

Discussion of Rules

This direct final rule will amend the description of the safety zone in 33 CFR § 165.1304 to include all waters of Bellingham Bay, Washington, bounded by a circle with a radius of 1000 yards centered on the fireworks launching site located on the Georgia Pacific Lagoon Seawall at position latitude 48°44′56″ N, longitude 122°29′40″ W, including the entrances to the I & J Street Waterway and the Whatcom Creek Waterway.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that only minor changes are being made to the regulations and that the changes made reduce the area affected by approximately one-half mile.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The safety zone created by this section is being moved to reflect the current launch site, and will not take place during more than a few hours each year on the Fourth of July. For these reasons, the Coast Guard certifies under 5 U.S.C. 605(b) that this change will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.34(h) of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documents. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under ''ADDRESSES.''

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 33 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Section 165.1304 is amended by revising paragraph (a) as follows:

§ 165.1304 Safety Zone Regulations; Bellingham Bay, Bellingham, Washington.

(a) Location. The following area is a safety zone: All waters of Bellingham Bay, Washington, bounded by a circle with a radius of 1000 yards centered on the fireworks launching site located on the Georgia Pacific Lagoon Seawall at position latitude 48°44′56″ N, longitude 122°29′40″ W, including the entrances to the I & J Street Waterway and the Whatcom Creek Waterway.

[Datum: NAD 83]

* * * * *

Dated: August 19, 1996.

Myles S. Boothe,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 96–23245 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5608–4]

National Oil and Hazardous Substances Pollution Contingency Plan: National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Liquid Gold Oil Corporation Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 9, announces the deletion of the Liquid Gold Oil Corporation site from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of human health and the environment.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew Lincoff, U.S. EPA Region 9, 75 Hawthorne Street, Mail Code H–6–3, San Francisco, California 94105 (510) 412–2330, OR Ben Hargrove, Cal/EPA DTSC Region 2, 700 Heinz Avenue, Suite 200, Berkeley, California 94710, (510) 540–3845.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is:

Liquid Gold Oil Corporation site, Richmond, California.

A Notice of Intent to Delete for this site was published on April 12, 1996 (XX FR 16234). The closing date for comments on the Notice of Intent to Delete was May 12, 1996. EPA received no comments.

EPA identifies sites which appear to present a significant risk to human health, welfare or the environment, and it maintains the NPL as the list of those sites. Sites on the NPL may be subject of Hazardous Substances Response Trust Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, hazardous waste, Intergovernmental relations, penalties, reporting and record keeping, requirements, Superfund, Water pollution control, Water supply.

Dated: September 3, 1996.

John Wise,

Acting Regional Administrator, Region 9.

For the reasons set out in the preamble, 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.

Appendix B—[AMENDED]

2. Table 1 of Appendix B to part 300 is amended by removing the Liquid Gold Oil Corporation Site, Richmond, California.

[FR Doc. 96–23222 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 96–88; Notice 1]

RIN 2127–AG54

Consumer Information Regulations; Fees for Course Monitoring Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends NHTSA's consumer information regulations on uniform tire quality grading by reducing the fee for the purchase of treadwear course monitoring tires that are sold by the agency at its Uniform Tire Quality Grading Test Facility in San Angelo, Texas. The purchase fee has been reduced to eliminate charges for testing the tires to establish their base course wear rate. This testing will no longer be performed by NHTSA in view of the agency's decision to fix the base course wear rate at its current value for all course monitoring tires that are sold in the future.

DATES: The amendment established by this final rule will become effective on October 11, 1996.

Any petitions for reconsideration must be received by NHTSA not later than October 28, 1996.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Clive Van Orden, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202–366–2830).

SUPPLEMENTARY INFORMATION: In a final rule published on August 2, 1995 at 60 FR 39269, NHTSA established fees for the purchase of treadwear course monitoring tires and for the use of the traction skid pads at the agency's Uniform Tire Quality Grading Test Facility in San Angelo, Texas. The rule noted that under uniform tire quality grading (UTQG) standards at 49 CFR 575.104, tires must be labeled with information indicating their relative performance in the areas of treadwear, traction, and temperature resistance. For the purpose of evaluating treadwear performance, NHTSA established a 400 mile roadway course near San Angelo, Texas, which is designed to produce treadwear rates that are generally representative of those encountered by tires in public use. Under the UTQG standards, the projected mileage obtained for tested tires must be corrected to account for environmental and other variations that occur during testing on the course. This is done by comparing the performance of the tested tires to that of course monitoring tires run in the same convoy. The course monitoring tires are specially manufactured under controlled conditions so that they can be used as a grading standard, and are made available by NHTSA for purchase at the San Angelo test facility.

The rule further noted that an audit conducted by the Department of Transportation's Office of Inspector General (OIG) concluded that NHTSA was not recovering the full cost of the course monitoring tires that it sells at San Angelo, contrary to the

requirements of Office of Management and Budget (OMB) Circular A–25, which establishes Federal policy regarding fees assessed for Government services and for the sale or use of Government goods or resources. To address these deficiencies, the rule established $379.00 as the fee for each course monitoring tire that NHTSA sells at San Angelo. This amount was the minimum necessary for NHTSA to recover the direct and indirect costs that it incurs in furnishing these tires. It was derived by performing the following calculation for the 700 course monitoring tires that are purchased annually by NHTSA:

Purchase price of course monitoring tires	$175,000
General facility costs relating to tires	3,400
Warehouse storage fees	24,000
Salaries relating to tires	29,825
Testing fees to establish base course wear rate for tires	32,800
Total	$265,025

Number of tires purchased annually=700
$265,025÷700=$378.61 cost per tire.

Through a final rule published elsewhere in this issue of the Federal Register, NHTSA has amended the UTQG Standards to revise treadwear test procedures so that the base course wear rate of course monitoring tires is fixed at its current value of 1.34 mils per thousand miles. As a result of this amendment, NHTSA will no longer perform testing to establish a base course wear rate for newly procured batches of course monitoring tires.

So that the government recovers no more than the costs that it actually incurs in providing these tires, testing expenses are being eliminated from the formula used to calculate the tires' purchase price. As shown in the above calculation, testing expenses to establish a base course wear rate amount to $32,800 for the 700 tires that are purchased annually by NHTSA. By eliminating these expenses, the price that is charged for each tire may be reduced by $47.00 ($32,800÷700=$46.85). NHTSA is adding one dollar to the purchase price of each tire to cover shipping expenses it incurs for the delivery of these tires to the San Angelo test facility. These expenses amount to $880.00 for each lot of 700 tires that the agency receives ($880.00÷700=$1.26). With these adjustments, the purchase price for each course monitoring tire that NHTSA sells at San Angelo has now been set at $333.00 ($379.00 – $47.00+$1.00=$333.00).

Rulemaking Analyses and Notices

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

This rulemaking action was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

The agency believes that motor vehicle and tire manufacturers and tire brand owners typically do not qualify as small entities. This amendment may affect small businesses, small organizations, and small governmental units to the extent that these entities purchase vehicles and tires.

However, because this amendment is reducing the fee that NHTSA charges for course monitoring tires, it can only have a beneficial effect on these entities.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, P.L. 96–511, the agency notes that there are no information collection requirements associated with this rulemaking action.

6. Civil Justice Reform

This rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30111), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (49 U.S.C. 30161) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

7. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because affected members of the public can only benefit from the fee reduction that is accomplished by this amendment.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, § 575.104, *Uniform tire quality grading standards,* in Title 49 of the Code of Federal Regulations at Part 575, is amended as follows:

PART 575—[AMENDED]

1. The authority citation for Part 575 will continue to read as follows:

Authority: 49 U.S.C. 322, 30111, and 30123; delegation of authority at 49 CFR 1.50

2. Appendix D to § 575.104 is amended by revising paragraph 1 to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

Appendix D—User Fees

1. *Course Monitoring Tires:* A fee of $333.00 will be assessed for each course monitoring tire purchased from NHTSA at Goodfellow Air Force Base, San Angelo, Texas. This fee is based upon the direct and indirect costs attributable to: (a) the purchase of course monitoring tires by NHTSA, (b) a pro rata allocation of salaries and general facility costs associated with maintenance of the tires, and (c) warehouse storage fees for the tires.

* * * * *

Issued on: August 6, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–22949 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 960830238–6238–01; I.D. 082096B]

RIN 0648–AJ07

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 15

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 15 to the Northeast Multispecies Fishery Management Plan (FMP). This rule extends the timing of the Mid-coast Closure Area for vessels fishing with sink gillnet gear from the current November through December period to September 15 through December 31. The intent of this action is to reduce further the incidental mortality of harbor porpoise in the Gulf of Maine sink gillnet fishery to meet porpoise bycatch reduction goals. This rule also makes several corrections to the regulatory text.

EFFECTIVE DATE: September 6, 1996.

ADDRESSES: Copies of Amendment 7 to the Northeast Multispecies Fishery Management Plan (Amendment 7), its regulatory impact review (RIR) and the final regulatory flexibility analysis (FRFA) contained with the RIR, its final supplemental environmental impact statement (FSEIS), and Framework Adjustment 15 documents are available upon request from Christopher Kellogg, Acting Executive Director, New England Fishery Management Council (Council), 5 Broadway, Saugus, MA 01906-1097.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, NMFS, Fishery Policy Analyst, 508-281-9272.

SUPPLEMENTARY INFORMATION:

Background

In 1993, at the request of NMFS, the Council agreed to develop a strategy to reduce the bycatch of harbor porpoise in the Gulf of Maine sink gillnet fishery by integrating a mitigation plan with fishery management measures. Subsequently, one of Amendment 5's (59 FR 9872, March 1, 1994) principal objectives was to reduce the bycatch of harbor porpoise in the Gulf of Maine sink gillnet fishery by the end of year 4 of the plan's implementation to a level not to exceed 2 percent of the population, based on the best available estimates of abundance and bycatch. Amendment 7 to the FMP (61 FR 27710, May 31, 1996), implemented in July 1996 included an objective for harbor porpoise that was revised to be consistent with the 1994 amendments to the Marine Mammal Protection Act (MMPA). The Council's new provision requires reductions in the incidental mortality and serious injury of harbor porpoise in the Gulf of Maine sink gillnet fishery to the potential biological removal (PBR) level identified for this stock through the process described in section 117 of the MMPA by April 1, 1997, the date required for compliance with section 118(f)(5)(A) of the MMPA. Based on current population and life history information, the PBR level is 403 animals for Gulf of Maine harbor porpoise.

In view of the Council's revised objective, which is to reduce the harbor porpoise bycatch to the PBR level by April 1, 1997, coupled with the most recent bycatch estimate (2,000 harbor porpoise in 1994) and the fact that the Mid-coast Closure Area in the fall accounts for more than 50 percent of the harbor porpoise bycatch in the Gulf of Maine, management action is necessary in order to make further progress toward the Council's bycatch reduction goals. The 1995 bycatch estimate is not yet available but is expected to be somewhat lower than the most recent figure (2,000 animals in 1994). In addition, analysis of recent survey data have resulted in a larger population estimate that will revise the PBR level to 490 animals (pending approval by the Atlantic Scientific Review Group). However, there is no preliminary information that indicates that the current bycatch approaches even the newly projected PBR level of 490 animals.

There are currently four time/area closures in place to protect harbor porpoise. This action extends the existing Mid-coast Closure Area in time to sink gillnet gear based on information collected for the fall period, 1990-95. During the September through December period analyzed, bycatch was highest in October and November. September and December were months with more variability but, in some years, accounted for a significant percentage of the fall bycatch. Framework Adjustment 15 will close the Mid-coast Closure Area to gillnet gear from September 15 through October 31. This will precede the November 1 through December 31 closure to all gear capable of catching multispecies and will result in a total closure period for gillnet gear in this area of September 15 through December 31.

The Council, in consideration of recommendations by the Harbor Porpoise Review Team (HPRT) and Marine Mammal Committee, proposed this September 15 through October 31 additional Mid-coast Closure Area period and also requested the Director, Northeast Region, NMFS (Regional Director), to investigate the possibility of the use of acoustic deterrents as a condition or requirement to fish with sink gillnets in the area to mitigate harbor porpoise bycatch. The Regional Director agreed to investigate the feasibility of further use of the devices in a concurrent action.

The Council is making this adjustment to the regulations under the abbreviated framework rulemaking procedure codified at 50 CFR part 648, subpart F. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis and opportunity to comment on them prior to and at a second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Regional Director that the measures be published as a final rule if certain conditions are met. The Regional Director may publish the measures as a final rule, or as a proposed rule if additional public comment is needed.

This final rule implements an additional closure period from September 15 through October 31 and results in an expanded period for the Mid-coast Closure Area for vessels using gillnet gear. This area will thus be closed to gillnet gear from September 15 through December 31 of each fishing year.

This issue was discussed at a Marine Mammal Committee meeting held on May 21, 1996, and at two Council meetings, the minimum required under the Northeast Multispecies FMP framework adjustment process. Both Council meetings were held in Danvers, MA, the first on June 5, 1996, and the second on July 17, 1996. Documents summarizing the Council's proposed action, the biological analyses upon which this decision was based, and potential economic impacts were available for public review 5 days prior to the second meeting required under the framework adjustment process. Written comments were accepted through July 16, 1996. Comments on the Council's proposal were received at

meetings from individuals and representatives of the International Wildlife Coalition, Cape Ann Gillnetters Association and the Mass Netters Association.

Finally, this rule contains corrections to § 648.87. Specifically, incorrect paragraph references are corrected in § 648.87, paragraphs (b)(1) and (b)(2), and, in paragraph (b)(2), an inconsistent reference to the ''Cape Cod South Closure Area'' is corrected, an incorrect closure date is corrected, and the word ''map'' is changed to ''chart''.

Comments and Responses

Comment: Several individuals addressed the need to continue to reduce harbor porpoise bycatch in the fall months.

Response: The Council concurred based on biological analyses provided by the Northeast Fisheries Science Center (NEFSC) and the recommendation of the HPRT. Information collected during 1990-95 indicates a pattern of high takes of harbor porpoise in the sink gillnet fishery throughout the fall months. The bycatch is highest, however, in October and November. The Mid-coast Closure Area is already closed to most gear to protect multispecies finfish during the months of November and December under Amendment 7 to the FMP. The September 15 to December 31 closure period would remain in effect for the sink gillnet fishery to protect harbor porpoise even if changes occur to the closures implemented for multispecies conservation.

Comment: Several fishermen commented that the MMPA and Council goal of reaching the PBR level by April 1997 is neither realistic nor warranted.

Response: The PBR level goal and the process for determining the PBR level have a strong biological basis and were developed to meet requirements of other applicable law. This includes the MMPA, which was reauthorized in 1994 to include the PBR level stipulations.

Adherence to Framework Procedure Requirements

The Council considered the public comments received prior to making its recommendation to the Regional Director under the provisions for abbreviated rulemaking in this FMP. The Council requested publication of these management measures as a final rule after considering the required factors stipulated under the framework measures in the FMP, 50 CFR 648.90, and has provided supporting analyses for each factor considered. NMFS concurs.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds there is good cause to waive prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B). Public meetings held by the Council to discuss the management measures implemented by this rule provided adequate prior notice and an opportunity for public comment to be heard and considered. The AA finds that under 5 U.S.C. 553(d), the need to have this regulation in place by September 15, 1996, is good cause to waive the 30-day delay in effectiveness of this regulation. Delay of implementation of this regulation beyond September 15, 1996, would likely impede the achievement of harbor porpoise mortality reduction goals.

Because this regulation is not being published as a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law, this rule is exempt from the requirement to prepare an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act. As such, none has been prepared.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 5, 1996.

N. Foster,

Deputy Assistant Administrator for Fisheries, National marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended to read as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.87, paragraph (b)(1) and the heading and first sentence of paragraph (b)(2) are revised to read as follows:

§ 648.87 Sink gillnet requirements to reduce harbor porpoise takes.

* * * * *

(b) * * *

(1) *Mid-coast Closure Area*. From March 25 through April 25 and from September 15 through October 31 of each fishing year, the restrictions and requirements specified in paragraph (b) of this section apply to the Mid-coast Closure Area, as defined under § 648.81(g)(1).

(2) *Cape Cod South Closure Area*. From March 1 through March 30 of each fishing year, the restrictions and requirements specified in paragraph (b) of this section apply to the Cape Cod South Closure Area (copies of a chart depicting this area are available from the Regional Director upon request), which is the area bounded by straight lines connecting the following points in the order stated. * * *

* * * * *

[FR Doc. 96–23190 Filed 9–6–96; 11:37 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 177
Wednesday, September 11, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AB68

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Foreign Denominated Debt

AGENCY: Farm Credit Administration.

ACTION: Resolution of advance notice of proposed rulemaking.

SUMMARY: The Farm Credit Administration (FCA) Board gives notice that no amendments to FCA regulations are planned as a result of the Advance Notice of Proposed Rulemaking (ANPRM) concerning the proposed issuance of Farm Credit securities denominated in foreign currencies by the Federal Farm Credit Banks Funding Corporation (Funding Corporation), on behalf of the Farm Credit banks.

FOR FURTHER INFORMATION CONTACT:

Michael J. LaVerghetta, Senior Financial Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498,

or

William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The FCA requested public comment through an ANPRM on November 24, 1995 (60 FR 57963) to assist it in determining whether the risks relating to the issuance of Farm Credit debt securities denominated in foreign currencies pose any unique safety and soundness concerns that needed to be addressed through amendments to FCA regulations. The comment period closed on January 31, 1996.

The FCA received one comment letter on the ANPRM, in which the Funding Corporation observed that the risks of issuing foreign currency denominated debt (FCDD) could be managed with standards and procedures similar to those now used by the System in interest rate swaps. After careful consideration, the FCA has determined that issuance of FCDD will not raise any safety and soundness concerns that cannot effectively be managed through the FCA funding approval process and other FCA guidance, such as the bookletter entitled ''Guidelines for Utilizing Derivative Products.''

The FCA noted in the ANPRM that current § 615.5450(b) under subpart O, which specifies that System securities shall be issued in denominations of $1000, $5000 or multiples thereof, could be interpreted to apply to System issuance of FCDD. However, the FCA interprets subpart O to apply only to the Federal Reserve Banks' book-entry procedures for issuance of domestic debt securities and not to the issuance of FCDD. Thus, no changes to § 615.5450 of subpart O are necessary.

On November 17, 1995, the FCA adopted an interim rule establishing a new subpart P that differentiates Systemwide debt securities distributed outside the United States from those issued through the Federal Reserve Banks under existing Funding Corporation programs.[1] Issuances of FCDD by the Funding Corporation, on behalf of the banks, under the Farm Credit System's Global Debt Program shall be guided by subpart P and will be subject to the FCA funding approval process. Accordingly, the FCA does not plan any further rulemaking at this time in connection with the issuance of Systemwide debt securities denominated in foreign currencies.

Dated: August 29, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–23240 Filed 9–10–96; 8:45 am]

BILLING CODE 6705–01–P

[1] *See* 60 FR 57916 (November 24, 1995). The rule also clarified the Funding Corporation's statutory authority to: (1) use more than one fiscal agent for issuance of Systemwide debt securities; and (2) employ fiscal agents other than Federal Reserve Banks for issuance of Systemwide debt securities in foreign capital markets. The FCA adopted the interim rule as final on March 1, 1996 (61 FR 12015).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–164–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that currently requires repetitive visual inspections and end-float checks of the ram air turbine (RAT), and replacement of the RAT, if necessary. This new action would require installation of a modified RAT, which would constitute terminating action for the currently required inspections. This proposal is prompted by the development of a modification of the RAT that positively addresses the unsafe condition. The actions specified by the proposed AD are intended to prevent the RAT from breaking away from it support leg, which could damage the airplane structure and systems, and could injure ground personnel.

DATES: Comments must be received by October 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–164–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Chuck Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–164–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–164–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 4, 1994, the FAA issued AD 94–01–11, amendment 39–8793 (59 FR 5462, February 1, 1994), applicable to Airbus Model A320 series airplanes equipped with certain ram air turbines (RAT). That AD requires repetitive detailed visual inspections and end-float checks of the RAT to detect various discrepancies, and replacement of the RAT with a new RAT, if necessary. That action was prompted by at least two reports indicating that, during on-ground functional testing of the RAT installed on these airplanes, the RAT propeller assembly separated from the support leg. In one case, the turbine was fully detached from the leg and traveled 4 meters forwards. In the other case, the turbine had moved 18 mm from the leg, but was not detached. Investigation of these failures revealed that the detachment was due to the failure of the ball bearings associated with the propeller assembly; the ball bearings failed as a result of excessive overloading and overtemperature. The requirements of AD 94–01–11 are intended to prevent the RAT from breaking away from its support leg, which could damage the airplane structure and systems, and could injure ground personnel.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the Direction Générale de l'Aviation Civile (DGAC), which the airworthiness authority for France, has advised the FAA that manufacturer has developed a modified RAT assembly that positively addresses the previous problems experienced with the RAT on the Airbus Model A320 series airplanes.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–29–1065, dated February 28, 1995, which describes procedures for installing a new modified RAT, identified as Modification 24701. The modified RAT includes an improved ball bearing that is not susceptible to the overloading and overtemperature problems experienced previously. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive (CN) 93–057–041(B)R1, dated June 7, 1995, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 94–01–11. It would continue to require repetitive visual inspections and end-float checks of the RAT, and replacement of the RAT, if necessary. It also would require the installation of the new modified RAT (Modification 24701) as terminating action for the repetitive inspections. The modification would be required to be accomplished in accordance with the service bulletin described previously.

This proposed action also would limit the applicability of the AD to only airplanes on which Modification 24701 has not been installed. This modification was installed prior to delivery on airplanes having manufacturer's serial number (MSN) 455, 471, 531, and subsequent.

Cost Impact

There are approximately 94 Airbus Model A320 series airplanes of U.S. registry that would be affected by this proposed AD.

The inspections/checks that are currently required by AD 94–01–11 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the current inspection/check requirement is estimated to be $5,640, or $60 per airplane, per inspection/check.

The terminating modification that is proposed in this AD action would take approximately 74 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact on U.S. operators of the proposed modification requirement of this AD is estimated to be $417,360, or $4,440 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8793 (59 FR 4562, February 1, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 96–NM–164–AD. Supersedes AD 94–01–11, amendment 39–8793.

Applicability: Model A320–111, –211, –212, –214, –231, and –232 series airplanes; on which Airbus Industrie Modification 24701 (as described in Airbus Service Bulletin A320–29–1065, dated February 28, 1995) has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) 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, unless accomplished previously.

To prevent the RAT from breaking away from its support leg, which could damage the airplane structure and systems, and could injure ground personnel, accomplish the following:

(a) Perform a detailed visual inspection and an end-float check of the RAT between turbine and leg, in accordance with Airbus Industrie Service Bulletin A320–29–1061, dated April 13, 1993, at the earliest of the times specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD:

(1) Within the next 450 flight hours after March 3, 1994 (the effective date of AD 94–01–11, amendment 39–8793); or

(2) Before and after the first functional ground check of the RAT that is performed after March 3, 1994; or

(3) After the first in-flight deployment of the RAT that occurs after March 3, 1994.

(b) If no discrepancy is detected, repeat the detailed visual inspection and the end-float check after each functional ground check of the RAT, and after each in-flight deployment of the RAT.

Note 2: Airbus Industrie Service Bulletin A320–29–1061, dated April 13, 1993, references Dowty Aerospace Service Bulletin 600–29–171, dated January 4, 1993, which provides specific descriptions of the discrepancies in paragraph 2 of that service bulletin.

Note 3: The discrepancies that are addressed in this AD can only occur during use of the RAT, and not during stowage of the RAT; therefore, it is not necessary to perform the repetitive inspections and end-float checks before each functional ground check of the RAT if the RAT has not been used since the preceding inspection.

(c) If any discrepancy is detected as a result of any detailed visual inspection required by this AD, prior to further flight, accomplish the requirements of either paragraph (c)(1) or (c)(2) of this AD.

(1) Replace the RAT in accordance with Airbus Industrie Service Bulletin A320–29–1061, dated April 13, 1993; and after replacement, repeat the detailed visual inspection and the end-float check required by paragraph (a) of this AD. Thereafter, repeat the detailed visual inspection and the end-float check after each functional ground check of the RAT, and after each in-flight deployment of the RAT. Or

(2) Install a new modified RAT (Modification 24701) in accordance with Airbus Service Bulletin A320–29–1065, dated February 28, 1995. Installation of this modification constitutes terminating action for the repetitive visual inspections and end-float checks required by this AD.

(d) Within 2 years after the effective date of this AD, install a new modified RAT (Modification 24701) in accordance with Airbus Service Bulletin A320–29–1065, dated February 28, 1995. Installation of this modification constitutes terminating action for the repetitive visual inspections and end-float checks required by this AD.

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

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

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

Issued in Renton, Washington, on September 4, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–23102 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–201–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require inspections to detect damage or cracking of the forward and aft attachment lugs of the flap fittings at wing station (WS) 123.38; an inspection to verify that the sizes of the holes of the flap fittings are within specified limits and to ensure that the swaged bushings are not loose; and modification of the flap fittings. This proposal is prompted by a report of jamming of a flap due to incorrect tolerances of the flap-hinge installation, which caused high bearing stress on the bushings in the flap fittings. The actions specified by the proposed AD are intended to prevent such high bearing stress, which could result in wear on the bushings, cracking of the flap fittings, and breakage of the lugs; these conditions could result in jamming of the flaps and consequent reduced controllability of the airplane.

DATES: Comments must be received by October 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–201–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–201–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–201–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that it received a report indicating that one of the flaps on one airplane jammed because the rear lug of one of the flap fittings at wing station (WS) 123.38 was broken and the bushing in the lug was worn. Investigation revealed that the bushings in the flap fittings were subjected to high bearing stress due to incorrect tolerances in the initial design of the flap-hinge installation. This condition can result in wear on the bushings, cracking of the flap fittings, and breakage of the lugs on the flap fittings. These conditions, if not corrected, could result in jamming of the flaps and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Saab has issued Service Bulletin SAAB 340–57–027, Revision 01, dated June 30, 1995, which describes procedures for repetitive visual inspections to detect damage or cracking of the forward and aft attachment lugs of the flap fittings at WS 123.38.

For airplanes on which any cracking or damage is found during the visual inspection, the service bulletin describes procedures for installation of new improved flap fittings and installation of improved bushings (Modification 2628—Part 3). This modification involves replacing the flap fittings and installing the flap hinge to the flap fittings.

The service bulletin also describes procedures for an eventual inspection to verify that the sizes of the inboard and outboard holes (swaged bushings) of the flap fittings are within specified limits, and to ensure that the swaged bushings are not loose.

For airplanes on which the sizes of the inboard and outboard holes are within specified limits and on which no loose swaged bushings are found, the service bulletin describes procedures for installation of improved bushings (Modification 2628—Part 1). This modification involves attaching the flap hinge to the flap fittings, torquing the nuts, and installing new cotter pins.

For airplanes on which the size of any hole is outside specified limits or on which any loose swaged bushing is found, the service bulletin describes procedures for installation of oversize bushings in the flap fittings, and installation of improved bushings (Modification 2628—Part 2). This modification entails removing and replacing the swaged bushings; increasing the hole for the floating bushings to oversize dimensions; and performing an eddy current inspection to detect cracking of the holes.

Installation of improved bushings (with a flange) will prevent damage and cracking as a result of high bearing stress on the bushings.

The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–072, dated April 21, 1995, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive visual inspections to detect damage or cracking of the forward and aft attachment lugs of the flap fittings at WS 123.38; an eventual inspection to verify that the sizes of the inboard and outboard holes (swaged bushings) of the flap fittings are within specified limits and to ensure that the swaged bushings are not loose; and modification of the flap fittings. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 224 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed visual inspection, and that the average labor rate is $60 per work hour. Based on

these figures, the cost impact of the proposed visual inspections on U.S. operators is estimated to be $13,440, or $60 per airplane.

For operators required to accomplish proposed Modification 2628—Part 1, the FAA estimates that it would take approximately 30 work hours per airplane to accomplish it, at an average labor rate of $60 per work hour. Required parts would cost $100 per airplane. Based on these figures, the cost impact of proposed Modification 2628—Part 1 on U.S. operators is estimated to be $1,900 per airplane.

For operators required to accomplish proposed Modification 2628—Part 2, the FAA estimates that it would take approximately 60 work hours per airplane to accomplish it, at an average labor rate of $60 per work hour. Required parts would cost $100 per airplane. Based on these figures, the cost impact of proposed Modification—Part 2 on U.S. operators is estimated to be $3,700 per airplane.

For operators required to accomplish proposed Modification 2628—Part 3, the FAA estimates that it would take approximately 96 work hours per airplane to accomplish it, at an average labor rate of $60 per work hour. Required parts would cost $1,400 per airplane. Based on these figures, the cost impact of proposed Modification—Part 3 on U.S. operators is estimated to be $7,160 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB Aircraft AB: Docket 95–NM–201–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159 inclusive; and Model SAAB 340B series airplanes, serial numbers 160 through 379 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must 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, unless accomplished previously.

To prevent high bearing stress on the bushings in the flap fittings, which could result in jamming of the flaps and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 800 hours time-in-service after the effective date of this AD: Perform a visual inspection to detect damage or cracking of the forward and aft attachment lugs of the flap fittings at wing station (WS) 123.38, in accordance with Saab Service Bulletin SAAB 340–57–027, Revision 01, dated June 30, 1995.

(1) If no cracking or damage is found, and the flap fittings have not been modified or replaced, repeat the visual inspection thereafter at intervals not to exceed 800 hours time-in-service.

(2) If any cracking is found, prior to further flight, replace the flap fittings with new improved flap fittings, and install improved bushings, in accordance with the Accomplishment Instructions (Modification 2628 - Part 3) of the service bulletin. After this modification is accomplished, no further action is required by this paragraph.

(b) Within 4,500 hours time-in-service after the effective date of this AD, perform an inspection to determine the size of the inboard and outboard holes (swaged bushings) of the flap fittings, and to detect loose swaged bushings, in accordance with Saab Service Bulletin SAAB 340–57–027, Revision 01, dated June 30, 1995.

(1) If the sizes of the holes are within the limits specified in the service bulletin, and if no loose swaged bushings are found, prior to further flight, install improved bushings in accordance with the Accomplishment Instructions (Modification 2628—Part 1) of the service bulletin. After this modification is accomplished, no further action is required by this AD.

(2) If the size of any hole is outside the limits specified in the service bulletin, or if any loose swaged bushing is found, prior to further flight, install oversize bushings in the flap fittings, and install improved bushings, in accordance with the Accomplishment Instructions (Modification 2628—Part 2) of the service bulletin. After this modification is accomplished, no further action is required by this AD.

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

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

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

Issued in Renton, Washington, on September 4, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–23101 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–257–AD]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–7 series airplanes. This proposal would require modification of the power control relay installation of the emergency lights. The proposed AD also would require revising the FAA-approved Airplane Flight Manual to include procedures for turning off and on the emergency lights switch in certain conditions. This proposal is prompted by a report that the emergency lights do not automatically illuminate when all generated electrical power on the airplane is lost and the power to the left essential bus is maintained from the aircraft batteries. The actions specified by the proposed AD are intended to ensure that the emergency lights illuminate when needed in an emergency situation.

DATES: Comments must be received by October 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–257–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256–7511; 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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–257–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–257–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–7 series airplanes. Transport Canada Aviation advises that the emergency lights do not automatically illuminate when all generated electrical power on the airplane is lost and the power to the left essential bus is maintained from the aircraft batteries. This condition, if not corrected, could result in the failure of the emergency lights to illuminate when needed in an emergency situation.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin S.B. 7–33–23, Revision 'A', dated October 20, 1995 (Modification 7/2622), which describes procedures for modification of the power control relay installation of the emergency lights. The modification involves installation of a new relay assembly and connection of the wires to the terminal block. The modification will provide direct monitoring of each generator control unit, and upon loss of all DC generators, the emergency lights will be activated by the emergency light batteries. Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–95–03, dated March 9, 1995, in order to assure the continued airworthiness of these airplanes in Canada.

Bombardier also has issued Dash 7 Flight Manual PSM 1–71A–1A, Revision 39, dated August 22, 1994, which describes procedures for turning off the emergency lights switch following accomplishment of Modification 7/2622. The flight manual also describes procedures turning on the emergency lights switch, if the emergency lights are required.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require modification of the power control relay installation of the emergency lights. Following accomplishment of the proposed modification, the proposed AD also would require revising the Limitations Section of the FAA-approved Airplane Flight Manual to include procedures for turning off and on the emergency lights switch. The actions would be required to be accomplished in accordance with the service bulletin and flight manual described previously.

Cost Impact

The FAA estimates that 47 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 4 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,713 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $138,791, or $2,953 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be $2,820, or $60 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 95–NM–257–AD.

Applicability: Model DHC–7 series airplanes, serial numbers 003 through 113 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must 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, unless accomplished previously.

To ensure that the emergency lights illuminate when needed in an emergency situation, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the power control relay installation of the emergency lights, in accordance with de Havilland Service Bulletin S.B. 7–33–23, Revision 'A', dated October 20, 1995.

(b) Following accomplishment of paragraph (a) of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting a copy of de Havilland Dash 7 Flight Manual PSM 1–71A–1A, Revision 39, dated August 22, 1994, into the AFM.

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

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

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

Issued in Renton, Washington, on September 4, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–23100 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–176–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that currently requires inspections to detect chafing of the wire looms (bundles) in the wing and the horizontal stabilizer; and repair or replacement, protection, and realignment, if necessary. This proposal would require that those actions also be accomplished in certain areas of the main landing gear (MLG) bays. This proposal also would require installation of protective sleeves around the wire bundles, and realignment of bundles that are not guided centrally into the conduit end fittings, which constitutes terminating action for the repetitive inspections. This proposal is prompted by a report that electrical short circuiting could occur in the wire bundles in the MLG bays. The actions specified by the proposed AD are intended to prevent such electrical short circuiting due to chafing of the wire bundles in the wing, horizontal stabilizer, or MLG bays.

DATES: Comments must be received by October 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–176–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at

the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–176–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–176–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 30, 1992, the FAA issued AD 92–22–02, amendment 39–8388 (57 FR 48957, October 29, 1992), applicable to certain Airbus Model A320 series airplanes, to require inspections to detect chafing of the wire looms (bundles) in the wing and the horizontal stabilizer; and repair or replacement, protection, and realignment, if necessary. That action was prompted by an incident in which short circuiting of a wire bundle caused fire extinguishant to discharge and pop the circuit breaker for a brake fan. The requirements of that AD are intended to prevent electrical short circuiting due to chafing of the wire bundles in the wing and the horizontal stabilizer.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has advised the FAA that chafing of the wire bundles and subsequent electrical short circuiting also could occur in the main landing gear (MLG) bays. This condition presents the same unsafe condition that was addressed by AD92–22–02.

Additionally, the DGAC has advised that protection of the wire bundle is necessary following any repair or replacement of a wire to prevent further wire damage.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–24–1044, Revision 3, dated March 12, 1993. Although Revision 3 of the service bulletin is essentially the same as Revision 2, it adds procedures for repetitive visual inspections of the wire bundles to detect damage, contact with the end fittings of the protective conduit, and misalignment with conduit end fittings in the MLG bays. The service bulletin recommends that any damaged wire be repaired or replaced in accordance with procedures described in the Aircraft Wiring Manual or the Aircraft Maintenance Manual.

Airbus also has issued Service Bulletin A320–24–1045, Revision 3, dated June 10, 1993. Among other things, this service bulletin describes procedures for installation of protective sleeves around the wire bundles, and realignment of bundles that are not guided centrally into the conduit end fittings. Revision 3 of the service bulletin adds procedures for accomplishment of these actions in the MLG bays. Accomplishment of the protection and realignment in accordance with Revision 3 of the service bulletin eliminates the need for the repetitive visual inspections.

The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 91–182–020(B)R2, dated December 7, 1994, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 92–22–02 to continue to require inspections to detect chafing of the wire bundles in the wing and the horizontal stabilizer; and repair or replacement, protection, and realignment, if necessary. The proposed AD also would require that these actions be accomplished in certain areas of the MLG bays. Additionally, the proposed AD would require installation of protective sleeves around the wire bundles, and realignment of bundles that are not guided centrally into the conduit end fittings, which constitutes terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Explanation of Requirement for Terminating Action

While the French AD and service bulletins allow flight to continue as long as the wire bundles are inspected repetitively, this proposed AD would require that protection and, if necessary, realignment of the wire bundles be accomplished as terminating action for the repetitive inspections. The FAA has determined that long term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and

more emphasis on design improvements. The proposed requirement for realignment and protection of the wire bundles is in consonance with these considerations.

In developing an appropriate compliance time for the proposed requirement to protect the wire bundles, the FAA's intent is that these actions be accomplished during a regularly scheduled maintenance visit for the majority of the affected fleet, when the airplanes would be located at a base where special equipment and trained personnel would be readily available, if necessary. The FAA finds that 7,000 hours time-in-service corresponds closely to the interval representative of most of the affected operators' normal maintenance schedules. The FAA considers that this interval will provide an acceptable level of safety.

Cost Impact

There are approximately 30 Model A320 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are required currently by AD 92–22–02 take approximately 31 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $55,800, or $1,860 per airplane.

The inspections that are proposed in this AD action would take approximately 31 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the proposed inspection is estimated to be $55,800, or $1,860 per airplane.

The installation that is proposed in this AD action would take approximately 59 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost for required parts would be negligible. Based on these figures, the cost impact on U.S. operators of the proposed installation is estimated to be $106,200, or $3,540 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8388 (57 FR 48957, October 29, 1992), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 95–NM–176–AD. Supersedes AD 92–22–02, Amendment 39–8388.

Applicability: Model A320 series airplanes on which Airbus Modification No. 22109 (Airbus Service Bulletin A320–24–1045, Revision 3, dated June 10, 1993) has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) 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, unless accomplished previously.

To prevent electrical short circuiting due to chafing of the wire bundles in the wing, horizontal stabilizer, or main landing gear (MLG) bay, accomplish the following:

Restatement of Requirements of AD 92–22–02

(a) For airplanes having manufacturer's serial numbers through 169 inclusive: Prior to the accumulation of 450 hours time-in-service after December 3, 1992 (the effective date of AD 92–22–02, amendment 39–8388), inspect the wire bundles in wing zones 574 and 674 through panels 574AB and 674AB to detect chafing or contact with the end fittings of the protective conduit, in accordance with Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993. Thereafter, repeat this inspection at intervals not to exceed 450 hours time-in-service until the inspection required by paragraph (c) of this AD is accomplished.

(1) If any chafed or damaged wire is found, prior to further flight, repair or replace it in accordance with the Airplane Maintenance Manual or the Aircraft Wiring Manual.

(2) If any wire bundle is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, or Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(2)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993.

(b) For airplanes having manufacturer's serial numbers through 169 inclusive: Prior to the accumulation of 1,500 hours time-in-service after December 3, 1992, inspect the wire bundles in the wing and horizontal stabilizer, excluding wing zones 574 and 674 through panels 574AB and 674AB, to detect chafing or contact with the ending fittings of the protective conduit, in accordance with Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993. Thereafter, repeat this inspection at intervals not to exceed 3,500 hours time-in-service until the inspection required by paragraph (d) of this AD is accomplished.

(1) If any chafed or damaged wire is found, prior to further flight, repair or replace it in accordance with the Airplane Maintenance Manual or the Aircraft Wiring Manual.

(2) If any wire bundle is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 2,

dated April 12, 1992, or Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(6)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993.

New Requirements of This AD

(c) For all airplanes: Prior to the accumulation of 450 hours time-in-service after the effective date of this AD, inspect the wire bundles in wing zones 574 and 674 through panels 574AB and 674AB to detect damage, contact chafing, or contact with the end fittings of the protective conduit, in accordance with Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993. Thereafter, repeat this inspection at intervals not to exceed 450 hours time-in-service. Accomplishment of this inspection terminates the inspections required by paragraph (a) of this AD.

(1) If any chafed or damaged wire is found, prior to further flight, accomplish the requirements of paragraphs (c)(1)(i) and (c)(1)(ii) of this AD.

(i) Repair or replace the wire in accordance with the Airplane Maintenance Manual or the Aircraft Wiring Manual. And

(ii) Protect the wire bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, or Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(2)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993.

(2) If any wire bundle is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, or Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(2)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993.

(d) For all airplanes: Prior to the accumulation of 1,500 hours time-in-service after the effective date of this AD, inspect the wire bundles in the wing and horizontal stabilizer, excluding wing zones 574 and 674 through panels 574AB and 674AB, to detect chafing or contact with the ending fittings of the protective conduit, in accordance with Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993. Thereafter, repeat this inspection at intervals not to exceed 3,500 hours time-in-service. Accomplishment of this paragraph terminates the inspections required by paragraph (b) of this AD.

(1) If any chafed or damaged wire is found, prior to further flight, accomplish the requirements of paragraphs (d)(1)(i) and (d)(1)(ii) of this AD.

(i) Repair or replace the wire in accordance with the Airplane Maintenance Manual or the Aircraft Wiring Manual. And

(ii) Protect the wire bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, or Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(6)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993.

(2) If any wire bundle is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, or Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(6)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992, or Revision 3, dated March 12, 1993.

(e) For all airplanes: Prior to the accumulation of 1,500 hours time-in-service after the effective date of this AD, inspect the wire bundles in the MLG bays to detect chafing or contact with the end fittings of the protective conduit, in accordance with Airbus Service Bulletin A320–24–1044, Revision 3, dated March 12, 1993. Thereafter, repeat this inspection at intervals not to exceed 3,500 hours time-in-service.

(1) If any chafed or damaged wire is found, prior to further flight, accomplish the requirements of paragraphs (e)(1)(i) and (e)(1)(ii) of this AD.

(i) Repair or replace the wire in accordance with the Airplane Maintenance Manual or the Aircraft Wiring Manual. And

(ii) Protect the wire bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(6)(b) of Airbus Service Bulletin A320–24–1044, Revision 3, dated March 12, 1993.

(2) If any wire bundle is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the bundle in accordance with Airbus Service Bulletin A320–24–1045, Revision 3, dated June 10, 1993; or in accordance with the temporary repair described in paragraph 2.B.(6)(b) of Airbus Service Bulletin A320–24–1044, Revision 3, dated March 12, 1993.

(f) If a temporary repair over a damaged length of wire bundle is accomplished in accordance with paragraph (a)(2), (b)(2), (c)(2), (d)(2), or (e)(2) of this AD: Prior to the accumulation of 450 hours time-in-service, replace the temporary repair with a protective sleeve around the wire bundle, and realign the bundle if it is not guided centrally into the conduit end fittings. Accomplish these actions in accordance with Airbus Service Bulletin A320–24–1045, Revision 3, dated June 10, 1993. Accomplishment of these actions terminates the repetitive inspections required by paragraph (c), (d), or (e) of this AD, as applicable.

Note 2: Accomplishment of the actions in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, is acceptable for compliance with the requirements of paragraph (f) of this AD for the areas specified in paragraphs (c) and (d) of this AD.

(g) For all airplanes: Prior to the accumulation of 7,000 hours time-in-service after the effective date of this AD, install protective sleeves around the wire bundles, and realign any bundle that is not guided centrally into the conduit end fittings, in wing zones 574 and 674 through panels 574AB and 674AB, in the wing and horizontal stabilizer, excluding wing zones 574 and 674 through panels 574AB and 674AB, and in the MLG bays, in accordance with Airbus Service Bulletin A320–24–1045, Revision 3, dated June 10, 1993. Accomplishment of these actions constitutes terminating action for the repetitive inspections required by this AD.

Note 3: Accomplishment of the actions in accordance with Airbus Service Bulletin A320–24–1045, Revision 2, dated April 12, 1992, is acceptable for compliance with the requirements of paragraph (g) of this AD for the areas specified in paragraphs (c) and (d) of this AD.

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

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

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

Issued in Renton, Washington, on September 5, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–23241 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO–24–96]

RIN 1545–AU31

Consolidated Returns—Limitations on the Use of Certain Losses and Deductions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to the notice of public hearing.

SUMMARY: This document contains a correction to the notice of public

hearing (CO–24–96) which was published in the Federal Register on Thursday, June 27, 1996 (61 FR 33393). The notice of public hearing generally relates to the carryover and carryback of losses to consolidated and separate return years.

FOR FURTHER INFORMATION CONTACT: David Friedel (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of public hearing that is the subject of this correction is under section 1502 of the Internal Revenue Code.

Need for Correction

As published, the notice of public hearing (CO–24–96) contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of public hearing (CO–24–96) which is the subject of FR Doc. 96–15826 is corrected as follows:

On page 33394, column 2, in the preamble, under the heading ''Comments and Public Hearing'', in the second paragraph, line 2, the language ''for Monday, September 16, 1996, at 10'' is corrected to read ''for Thursday, October 17, 1996, at 10''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–23086 Filed 9–10–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 651

Environmental Analysis of Army Actions

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws from consideration a proposed rule published in the Federal Register on July 22, 1996 (Vol. 61, No. 141 FR 37865). The document is being withdrawn to allow for further review.

ADDRESSES: Headquarters, Department of the Army, ATTN: DAIM–ED (Mr. Timothy Julius, Environmental Protection Specialist), 600 Army Pentagon, Washington, DC 20310–0600.

FOR FURTHER INFORMATION CONTACT: Timothy P. Julius, (703) 693–0543.

SUPPLEMENTARY INFORMATION: Written comments already received from the public will be considered when promulgating a new proposed rule.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–23175 Filed 9–10–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

33 CFR Part 165

Coast Guard

[COTP Charleston 96–034]

RIN 2115–AA97

Safety Security Zone Regulations; Charleston Harbor and Cooper River, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a moving safety security zone around vessels transporting nuclear materials in Charleston Harbor and the Cooper River. Each zone would extend 200 yards ahead and astern, and 100 yards to each side of vessels carrying the nuclear materials, during transit from the Charleston Harbor Entrance to the Charleston Naval Weapons Station on the Cooper River. The zone would remain in effect during cargo operations while the vessel is moored at the Naval Weapons Station. This safety security zone is needed to protect the transport vessels from potential protests and demonstrations by organizations that may attempt to disrupt shipments, while transiting Charleston Harbor and the Cooper River.

DATES: Comments must be received on or before November 12, 1996.

ADDRESSES: Comments should be mailed to Commanding Officer, Marine Safety Office Charleston, 196 Tradd Street, Charleston, South Carolina 29401–1899. Comments will be available for inspection and copying at this address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address. The telephone number is (803) 720–7701.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jeffrey T. Carter, Project Officer, Coast Guard Marine Safety Office Charleston, at (803) 720–7701.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identifying this notice [COTP CHARLESTON 96–034] and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. The proposed rule may be changed in light of comments received.

No public hearing is planned, but one may be held if written requests for a hearing are received and determined that the opportunity to make oral presentations will aid the rulemaking process.

Discussion of Proposed Regulations

The Coast Guard proposes to establish a moving safety security zone around vessels transporting certain nuclear materials in Charleston Harbor and the Cooper River. As part of a major national security objective to prevent the spread of nuclear weapons worldwide, the U.S. Department of Energy will be receiving shipments of foreign research reactor spent nuclear fuel rods through the Charleston Naval Weapons Station. These shipments will take place over a 13 year period. Protests and demonstrations during shipments through U.S. ports of nuclear materials, such as spent fuel rods, would place the safe navigation of the transport vessels at risk. This moving safety security zone is needed to protect the transport vessels from the risk associated with protests and demonstrations while transiting Charleston Harbor and Cooper River.

The safety security zone would extend 200 yards ahead and astern and 100 yards to each side of the vessel carrying the nuclear materials during its transit from Charleston Harbor Entrance Buoy ''C'' (LLNR 1885) to the Charleston Naval Weapons Station on the Cooper River. The zone would remain in effect during cargo operations while the vessel is moored at the Naval Weapons Station. Entry into the zone would be prohibited during vessel transit (which includes any emergency anchorage or mooring) and cargo transfer operations, unless authorized by Captain of the Port of Charleston.

The actual dates this safety security zone would be in effect are not known at this time. The Captain of the Port will announce the activation of this zone through a Broadcast Notice to Mariners whenever Captain of the Port Charleston

receives a firm arrival time. Maritime traffic will not be significantly impacted because of the expected small number of vessels needing this safety security zone, and the limited duration of the zone during transit and cargo operations.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Maritime traffic will not be significantly impacted because of the expected small number of vessels needing this safety security zone, and the limited duration of the zone during transit and cargo operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. Because of the small number of vessels needing the safety zone and the minimal impact on navigation and commerce the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Section 2.B.2e.34(g) of Commandant Instruction M16475.1B that this action is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Subpart D of Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.708 is added to read as follows:

§ 165.708 Safety/Security Zone; Charleston Harbor and Cooper River, Charleston, SC.

(a) Regulated area. The following boundaries are established as a safety zone during specified conditions:

(1) All waters 200 yards ahead and astern and 100 yards to each side of a vessel transporting nuclear materials while the vessel transits from Charleston Harbor Entrance Buoy ''C'' (LLNR 1885, position 32–29.6N, 079–40.9W) to the Charleston Naval Weapons Station (position 32–55.4N, 079–56.0W) on the Cooper River. All coordinates referenced use datum: NAD 1983.

(2) All waters within 100 yards of the vessel described in paragraph (a)(1) of this section while the vessel is conducting cargo operations at the Charleston Naval Weapons Station.

(b) Captain of the Port Charleston will announce the activation of the safety zone described in paragraph (a) of this section by Broadcast Notice to Mariners. The general regulations governing safety zones contained in § 165.23 and § 165.33 apply.

Dated: August 26, 1996.

M.J. Pontiff,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 96–23246 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 60, 61, and 63

[AD–FRL–5550–9]

RIN 2060–AG30

Recordkeeping and Reporting Burden Reduction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revisions to rules and notice of public hearing.

SUMMARY: The proposed revisions result from a thorough review of the regulations implementing the Clean Air Act. This review was part of a Government-wide initiative as directed by the President on March 4, 1995. The EPA's goal in this review was to identify and eliminate unnecessary recordkeeping and reporting burdens. As a result of this review, the proposed revisions to existing standards would reduce recordkeeping and reporting burdens by approximately 1 million hours per year. This burden reduction is the equivalent of returning 25,000 workweeks back to the private sector to boost productivity and profits.

DATES: *Comments.* Comments must be received on or before October 11, 1996, unless a hearing is requested by September 23, 1996. If a hearing is requested, written comments must be received by October 28, 1996.

Public Hearing. Anyone requesting a public hearing must contact EPA no later than September 23, 1996. If a hearing is held, it will take place on September 26, 1996, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (LE–131), Attention, Docket No. A–95–50, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The Agency requests that a separate copy also be sent to the contact person listed below.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@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 by the docket number [A–95–50]. No Confidential Business Information (CBI) should be submitted

through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Public Hearing. If a public hearing is held, it will be held at the EPA Office of Administration Auditorium in Research Triangle Park, North Carolina. Persons interested in requesting a hearing, verifying that a hearing will be held, or wishing to present oral testimony should contact Ms. Yvonne Chandler, Policy, Planning and Standards Group (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5627 by the date specified above.

Docket. Docket No. A–95–50, containing supporting information used in developing the proposed amendments to standards, is available for public inspection and copying from 8 a.m. to 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, Ground Floor, 401 M Street, SW., Washington, DC 20460. The proposed regulatory text and other materials related to this rulemaking are available for review in the docket. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the standards or technical aspects, contact Mr. David Markwordt at (919) 541–0837, Chemicals and Petroleum Branch, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995 the President directed all Federal agencies and departments to conduct a comprehensive review of the rules they administer to identify those rules that are obsolete or unduly burdensome. Based on this review, EPA is today amending various rules to reduce unnecessary recordkeeping and reporting burdens. Today's action is part of an ongoing effort by the EPA to reduce unnecessary burdens associated with existing rules. EPA estimates that approximately 1 million hours of recordkeeping and reporting will be eliminated with these proposed changes.

II. Rules to be Amended

Table I contains a summary of the rules to be amended, the changes to the rules, and an estimate of the burden reduction associated with the proposed changes. The burden reductions are provided as an estimate of the savings to industries complying with these rules.

Table II contains a summary of existing rules which will be affected by changes made to the General Provisions (see Table I).

TABLE I.—BURDEN REDUCTION: ACTION PLAN FOR THE OFFICE OF AIR AND RADIATION

Title	CFR Cite	Description of burden reduction	Estimate of burden reduction
General Provisions—Part 60 and 61.	60.7(a), 60.19(b), 61.04(b).	Change provisions to allow for electronic notifications/reports	(1)
General Provisions—Part 60 and 63.	60.7(a)(2), 63.9(b)(2)(iv).	Delete notification of anticipated date of initial startup	
General Provisions—Part 60 and 63.	60.7(c) and 63.10(e)(3).	Change quarterly exception reporting to semi-annual	
General Provisions—Part 60	60.8(d)	Allow 7 days prior notice of any rescheduled performance test	
General Provisions—Part 60 and 63.	60.7(f) and 63.10(b)(2).	Allow reduction in retention of raw data (15 minute recordings) for continuous emission monitoring, where 95% data availability is achieved (retain hourly averages).	
NESHAP for Coke By-Product Recovery Plants.	61.130 (subpart L)	Change frequency of quarterly reports to semiannual reports. For carbon absorbers and incinerators, remove the requirement to develop and record a plan for proper operation and maintenance of the control device [61.139(i)(l)(ii)].	(2)
NESHAP for Asbestos	61.140 (subpart M)	Change quarterly reporting for exceedances to semiannual reporting for exceedances for milling, manufacturing and fabricating processes at all asbestos processing facilities.	(2)
Standards of Performance for the Phosphate Rock Plants.	60.400 (subpart NN)	Change quarterly reporting of scrubber exceedances to semi-annual.	(2)
NSPS for Magnetic Tape Coating Facilities.	60.714 and 60.717 (subpart SSS).	1) Change frequency of quarterly reports to semiannual. 2) For determining compliance with the cutoff applicability for controls, delete semiannual estimate of projected annual solvent use. Rely upon already required records of actual solvent usage. 3) Also delete requirement to report the first semiannual estimate in which annual use would exceed cutoff.	(2)
NSPS for Bulk Gasoline Terminals.	60.502(e)(3) and (4) (subpart XX).	Terminals may check tank truck vapor-tightness documentation less frequently (than within 2 weeks of loading now required) so that if: (1) less than 1 truck per month over 26 weeks is loaded without documentation, cross check is quarterly, or (2) less than 1 truck per month over 52 weeks is loaded without documentation, cross check is semi-annually.	(2)
MACT for Gasoline Distribution	63.420 (subpart R)	Subpart R requires compliance with Subpart XX 60.502(e)(3) and (4) (see above). Changes in Subpart XX result in a burden reduction in Subpart R.	19,000

TABLE I.—BURDEN REDUCTION: ACTION PLAN FOR THE OFFICE OF AIR AND RADIATION—Continued

Title	CFR Cite	Description of burden reduction	Estimate of burden reduction
NSPS for Glass Manufacturing Plants.	60.290 (subpart CC)	Change monitoring to: install and operate continuous opacity monitors or approved alternative continuous parametric monitors that represent *99%* confidence level of average opacity valued determined during performance testing. (This reflects a change in confidence level from 97.5% to 99%.) 2) Change reporting to: For the purpose of 60.7 report all periods during which the average opacity exceeds the 99% confidence level. (This reflects a change in confidence level from 97.5% to 99%).	(2)
NESHAP for Arsenic from Glass Manufacturing Plants.	61.160 (subpart N)	Change monitoring to: determine the opacity value corresponding to the 99% confidence level and calculate the 15 minute averages of gas temperature entering control device. (This reflects a change in confidence level from 97.5% to 99%.).	(2)
NSPS for Municipal Waste Combustors.	60.50a (subpart Ea)	This action would revise the CEMS reporting requirements under the 1991 NSPS (Subpart Ea) to be consistent with the 1995 NSPS (Subpart Eb) and Guideline (Subpart Cb). The CEMS reporting requirements for SO2, NOx, and CO would be revised from quarterly reporting to annual with semiannual exception reporting.	2,300
NSPS for Fossil-Fuel Fired Steam Generators for which construction is commenced after 8/17/71 and before 9/19/78.	60.40–60.47 (subpart D).	Change quarterly excess emission reports to semiannual	1,300
NSPS for Fossil-Fuel Fired Steam Generators for which construction is commenced after 8/17/71 and before 9/19/78.	60.40a–60.49a (subpart Da).	Change quarterly excess emission reports for opacity and quarterly compliance reports for SO2 and NOx to semiannual.	1,300
NSPS for Fuel Gas Combustion Devices.	60.100–60.109 (subpart J).	Change catalytic cracking units quarterly compliance reports for opacity, CO, and SO2 to semiannual. Change fuel gas combustion devices quarterly compliance reports for SO_2 and H2S to semiannual. Change quarterly claus sulfur recovery units compliance reports for SO_2 and reduced sulfur compounds and H2S to semiannual.	1,500
NSPS for Industrial-Commercial Institutional Steam Generating Units.	60.40b–60.49b (subpart Db).	Change all quarterly reporting requirements to semiannual	35,000
NSPS for Industrial-Commercial Institutional Steam Generating Units.	60.40c-60.48c (subpart Dc).	Change all quarterly reporting requirements to semiannual	1,700
Reports Source Emissions and State Action Reporting.	51.322 (subpart Q)	Reduce the number of sources that are required to report due to the amount of emissions they currently emit: raise the reporting threshold for SO2, NOx, PM10, and VOC from 100 tons/year to 200 tons/year and for CO from 1000 tons/year to 2000 tons/year.	1,700
NSPS for New Residential Wood Heaters.	60.531 60.536(f)(3) 60.538 (subpart AAA).	Correction to 60.531 reduces resources needed to determine whether a given woodburning appliance is covered by the regulation. Clarification of 60.536(f)(3) eliminates the requirement that a manufacturer of a coal-only heater perform an emissions test. Removal of 60.538 eliminates confusion as to how regulation should be applied.	(2)

[1] 780,000 (total for all GP revisions).
[2] Negligible.

TABLE II.—EXISTING REGULATIONS IMPACTED BY CHANGES TO GENERAL PROVISIONS

TITLE	SUBPART	ICR NO.	OMB NO.
NSPS SECONDARY BRASS & BRONZE PROD. PLANTS	M	1604.04	2060.0110
NESHAP: BENZENE WASTE OPERATIONS	FF	1541.04	2060.0183
NSPS: PORTLAND CEMENT PLANTS	F	1051	2060–0025
NESHAP: CHROM. EMIS. FROM HARD & DECORATIVE CHROM. ELECTRO. & CHROM ANODIZING TANKS.	N	1161.02	2060–0327
NITRITIC ACID PLANTS	G	1056.05	2060–0019

TABLE II.—EXISTING REGULATIONS IMPACTED BY CHANGES TO GENERAL PROVISIONS—Continued

TITLE	SUBPART	ICR NO.	OMB NO.
STD. FOR PERFORMANCE FOR NEW STATIONARY SOURCES, SULFURIC ACID PLANTS.	H	1057.06	2060–0041
ELECTRIC ARC FURNACES & ARGON-OXYGEN DECARBURIZATION VESS. INFO. REQUIREMENTS.	AA & AAA	1060.07	2060–0038
NSPS FOR PHOSPHATE FERTILLIZER IND.	T,U,V,W, & X	1061.06	2060–0037
NAPA: COAL PREPARATION PLANTS	B ?	1062	2060–0122
NSPS FOR SEWAGE TREATMENT PLANT INCIN.	O	1063.06	2060–0035
STD. OF PERF. FOR IRON & STEEL PLANTS (BASIC PROC. FURNACES)	N, NA	1069.04	2060–0029
NSPS FOR AUTOMOBILE & LIGHT DUTY TRUCK SURFACE COAT. OPRS.	MM	1064.06	2060–0034
NSPA FOR STATIONARY GAS TURBINES INF. REQ.	GG	1071.05	2060–0028
NSPS RECORDKEEPING & REPORTING REQ. FOR LEAD-ACID BATTERY MFG..	KK	1072.04	2060–0081
NSPS: NON-METALLIC MINERAL PROCES. PLANT	OOO	1084	2060–0050
(NSPS) FOR ONSHORE NATURAL GAS PROCESS. PLANT/EQUIP. LEAKS OF VOC & EMISS. OF SC2—REPORTING/ RECORDKEEPING.	KKK/LLL	1086.03	2060–0120
NESHAP—BERYLLIUM	C	193	2060–0092
NSPS FOR METAL FURN. SURFACE COATING	EE	0649.05	2060–0106
NSPS: GRAPHIC ARTS INDUSTRY		657	2060–0105
NSPS FOR PRESSURE SENS TAPE & LABEL SURFACE COATING INF. REQUIR..	RR	0658.05	2060–0004
NSPS FOR SURFACE COAT. OF LARGE APPLIANCES, INF. & REQUIREMENTS.	SS	0659.06	2060–0108
NSPS FOR METAL COIL SURFACE COATING INFORMATION & REQUIREMENTS.	TT	0660.05	2060–0107
NSPS: ASPHALT PROCESS. & ASPHALT ROOF MFG.		661	2060–0002
NSPS FOR BEVERAGE CAN SURFACE COATING, INFORMATION REQUIREMENTS.	WW	0663.05	2060–0001
NSPS FOR CALCINERS & DRYERS IN MINERAL INDS. REPORT/RECORDKEEPING.		0746.02	2060–0251
STDS. OF PERF. FOR NEW STATIONARY SOURCES METALLIC MIN. PROCESSING PLANTS.	LL	0982.04	2060–0016
NSPS FOR EQUIP. LEAKS OF VOC IN PETROLEUM REFIN. INF. REQUIREMENTS.	GGG	0983.04	2060–0067
NSPS FOR PETROLEUM DRY CLEANERS, INF. & REQUIREMENTS	JJJ	0997.04	2060–0079
STORAGE VESSELS FOR PETROLEUM LIQUIDS—STDS OF PERF. FOR NEW STATIONARY SOURCES.	KA	1050.05	2060–0121
NESHAP FOR ETHYLENE OXIDE COMMERCIAL STERILIZATION & FUMIGATION OPERATIONS.	O	1666.02	2060–0283
NESHAP FOR CHROMIUM EMISSIONS FROM IND. PROCESS COOLING TOWERS.		1625.02	2060–0268
NEW RESIDENTIAL WOOD HEATERS, RPT & RECORDKEEPING REQUIREMENTS.	AAA	1176.04	2060–0161
NSPS: POLYMERIC COATING OF SUPPORTING SUBSTRATES FACILITIES		1284	2060–0181
COKE OVEN BATTERY NATIONAL EMISSION STANDARDS		1362.02	2060–0253
NESHAP FOR DRY CLEANING FACILITIES/ PERCHLORO-ETHYLENE (PCE)		1415.02	2060–234
PROHIBITION OF HEXAVALENT CHROMIUM CHEMICALS IN COMFORT COOLING TOWERS, INF. REQ..		1420.03	2060–0193
NSPS FOR STARCH PROD PLANTS	XXX	1706.01	2060–0310
NSPS FOR WOOL FIBERGLASS INSULATION MFG.	PPP	1160.04	2060–0114
NSPS LIME MFG. IND. INF. REQUIREMENT	HH	1167.04	2060–0063
NESHAP FOR BENZENE EMISSIONS FROM BULK OPRS.	BB	1154.03	2060–0182
NSPS SYNTHETIC FIBER PROD. FACIL. INFOR. REQUEST	HHH	1156.06	2060–0059
NSPS FLEXIBLE VINYL & URETHANE COATING & PRINTING INF. REQUIREMENT.	FFF	1157.04	2060–0073
TIRE MFG. INDUSTRY	BBB	1158	2060–0156
FED. STDS. FOR MARINE TANK VESSEL LOADING & UNLOAD. OPRS. & NESHAP/ MARINE VESSEL LOADING.		1679.01	2060–0289
NESHAP: EPOXY RESIN & NON-NYLON POLYAMIDE RESIN PRODUCTION		1681	2060–0290
NESHAP SHIPBLDG. & SHIP REPAIR SURF. COATING	II	1712.01	2060–0330
NESHAP FOR WOOD FURN. MFG. OPRS.	JJ	1716.01	2060–0324
NESHAP FOR OFF-SITE WASTE OPRS.	DD	1717.01	2060–0313
NSPS FOR SURFACE COATING OF PLASTIC PARTS FOR BUSINESS MACHINES.	TTT	1093.04	2060–0162
INF. COLLECT. REQUIREMENT FOR HOT MIX ASPHALT FACILITIES (NSPS)	I	1127.04	2060–0083
SECONDARY LEAD SMELTERS	L	1128.04	2060–0080
GRAIN ELEVATORS (NSPS)	DD	1130.04	2060–0082
NSPS FOR VOLATILE ORGANIC STORAGE VESSELS	KB	1132.04	2060–0074
NSPS POLYMER MFG. IND. RECORDKEEPING & RPT REQUIREMENT	DDD	1150.03	2060–0145
NESHAP: HALOGENATED SOLVENT CLEANERS/ HALOGENATED (HAP)	T	1652	2060–0273
NES SOURCE PERFORMANCE STDS. (NSPS) FOR KRAFT PULP MILLS	BB	1055.04	2060–0021
NES FOR MAGNETIC TAPE MFG. OPRS	EE	1055.04	2060–0326

TABLE II.—EXISTING REGULATIONS IMPACTED BY CHANGES TO GENERAL PROVISIONS—Continued

TITLE	SUBPART	ICR NO.	OMB NO.
NSPS FOR VOLATILE VOC EMISSIONS FROM SYNTHETIC ORGANIC CHEM. IND. WASTEWATER.	.....	1697.01	2060–0311
NESHAP FOR BENZENE EQUIPMENT LEAKS, INF. REQUIR.	V	1153.05	2060–0068
NESHAP: RADIONUCLIDES	.....	1100.07	2060–0191
NESHAP: RADIOUNCLIDES	.....	1100.06	2060–0191

III. Rationale

Changes to General Provisions

In the General Provisions for new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) rules, 40 CFR Parts 60, 61, and 63, EPA is proposing to change any requirement for quarterly reporting to a semiannual reporting requirement. These changes would conform the reporting requirements in the General Provisions to the reporting requirements of recently promulgated NSPS and NESHAP rules. If these revisions to the General Provisions were promulgated, reporting frequencies in specific NSPS and NESHAP rules could be more or less frequent than semiannual as deemed appropriate for those particular rules under the Clean Air Act.

In 1985, EPA published in the Federal Register a general policy regarding NSPS and NESHAP reporting frequencies (50 FR 46464 (Nov. 8, 1985)). The policy recommended quarterly reporting of all direct compliance information [1] showing exceedances, and allowed reporting of this information on a semiannual basis where no exceedance occurred. Further, the policy generally suggested semiannual reporting of all other information required in NSPS rules and quarterly reporting of all other information required in NESHAP rules.

The Agency now believes that the semiannual reporting frequencies contained in recently promulgated NSPS and NESHAP regulations and proposed in this rulemaking for all types of information are generally appropriate. EPA's experience over the past ten years with a variety of NSPS and NESHAP rulemakings covering industries of all types suggests that semiannual reporting provides sufficiently timely information to both ensure compliance and enable adequate enforcement of applicable requirements, while imposing less burden on the affected industry than would quarterly reporting. Recent NSPS and NESHAP rulemakings have moved almost exclusively to semiannual reporting as a standard approach. See, e.g., NSPS—40 CFR Part 60 Subpart UUU—Standards of Performance for Calciners and Dryers in Mineral Industries and NESHAP—40 CFR Part 63 Subpart O—Ethylene Oxide Emissions Standards for Sterilization Facilities.

EPA sees no reason to retain different reporting frequencies in the NSPS and NESHAP General Provisions compared to the reporting frequencies contained in recently promulgated rules. Accordingly, EPA is proposing changes to the General Provisions to conform to recently promulgated NSPS and NESHAP regulations. For a typical rule, the change from quarterly to semiannual reporting results in a 20 percent reduction in reporting burden or 6 percent of the overall burden. For the approximately 3.6 million burden hours resulting from the 60 rules affected by this provision, this will result in a reduction of approximately 215,000 hours.

EPA is proposing to allow the use of electronic data submission of notifications and reports within the General Provisions of 40 CFR Part 60, Part 61, and Part 63 as soon as a system is developed. The use of electronic means by EPA for receiving notifications and reports would greatly reduce the volume of paperwork and increase the efficiency in receiving notifications and reports. For a typical rule, the burden associated with notifications is approximately 7.0 percent; it is assumed allowing electronic data submission will reduce notification burden by 10 percent. For the approximately 3.6 million burden hours resulting from the 60 rules affected by this provision, this will result in a reduction of approximately 25,000 hours.

The agency is also proposing that a source may reduce the amount of records required to be maintained by the source based on the completeness of the records that ensure all exceedances are recorded and representative compliance measurements (a subset of total measurements) are recorded. This is a performance based scheme that would allow sources with data availability greater than 95% to reduce the amount of records required under the General Provisions. For example, 40 CFR § 63.8(b)(4)(ii) requires sources with CEMS to complete a minimum of one cycle of operation for each successive 15-minute period, and 40 CFR § 63.8(g)(2) requires the CEMS data to be reduced to 1-hour averages. The source currently must keep all required CEMS measurements. If a source achieved 95% data availability for all 1-hour averages within a day, the Agency is proposing to allow the source to discard the records of the 15-minute periods and retain the 1-hour averages at the end of each day. The Agency believes that this type of an approach would encourage sources to achieve a high data availability. The Agency is also exploring what level of data availability is appropriate for other types of continuous monitoring systems such as continuous parameter monitoring systems (CPMS) (e.g. temperature monitors), and is taking comment on expanding this proposal to other CMS requirements. The Agency is also exploring how the source's compliance status and how the need to verify correct calculation of valid hours should affect the extent or application of this proposal. For a typical rule that requires CMS, the recordkeeping burden for CMS data is approximately 47 percent of the overall recordkeeping burden or 20 percent of the overall burden. Approximately 75 percent of the rules require CMSs. For the approximately 3.6 million burden hours, this will result in a reduction of approximately 540,000 hours.

The General Provisions [Part 60 section 60.8(d)] require 30 days prior notice of any performance test, ''. . . except as specified under other subparts. . . .'' In cases where a performance test must be rescheduled, due to operational problems, etc., it is not always reasonable or necessary to provide 30 days prior notice to EPA or the State of the new date of the performance test. Based on conversations with personnel who are affected by the notification of the new date of the performance test (i.e., personnel at EPA Regional Offices and

[1] The 1985 Federal Register notice described ''direct compliance information'' as data which may be used by an enforcement agency as the sole evidence of a violation of the standard (see 50 FR 46467).

State agencies), the EPA has determined that after the initial 30-day notification, then notice provided 7 days prior to a rescheduled test is sufficient time to provide the Regional, State or Local agencies the opportunity to have an observer present. Therefore, section 60.8(d) has been revised to reflect this allowance.

The General Provisions [Part 60 section 60.7(a)(2) and Part 63 section 63.9(b)(2)(iv)] also require a notification of the anticipated date of initial startup for new affected facilities. After reviewing this requirement, the EPA has determined that this notification can be waived for owners and operators of affected facilities without affecting the enforcement of this regulation. The deletion of this reporting requirement is being made for purposes of streamlining and further reduction of the reporting burden on both large and small plant owners or operators.

Reduction in Reporting Frequencies

40 CFR Part 60 Subparts D, Da, Db, Dc, J, NN, and SSS

40 CFR Part 61 Subparts L and M

EPA is proposing to make the reporting frequency in these listed NSPS and NESHAP subparts semiannual. As explained above in reference to proposed revisions to the General Provisions, EPA now believes that semiannual reporting is generally appropriate for NSPS and NESHAP rules. The Agency's experience over the past ten years suggests that semiannual reporting provides sufficiently timely information to both ensure compliance and enable adequate enforcement of applicable requirements, while imposing less burden on the affected industry than would more frequent reporting. EPA sees no reason not to revise these existing NSPS and NESHAP regulations to conform to the semiannual reporting frequency proposed for the General Provisions.

Approximately 1,400 facilities will save about 30 hours per year per facility resulting in an annual savings of approximately 42,000 hours per year.

40 CFR Part 61 Subpart L

The standard includes particular provisions for benzene emission sources controlled with a carbon adsorber or vapor incinerator, although these are not the typical control measures found at coke by-product recovery plants. The rule requires the owner or operator to develop and record a plan for proper operation, maintenance and corrective action of the carbon adsorber or vapor incinerator to achieve 98 percent control [40 CFR 61.139(i)(1)(ii)]. The EPA proposes to delete this requirement because the monitoring and work practice standards that are also required are sufficient to ensure the desired control efficiency.

The monitoring required for the incinerator is temperature. For the carbon adsorber, concentration levels of emissions are required to be monitored. Furthermore, work practice standards specify when a fresh carbon bed is required, based on the results of the monitoring. Deviations from the requirements are to be recorded and reported. The Agency believes these requirements alone are sufficient to assure proper operation and maintenance, without the required development of a plan. However, facilities with these controls may still choose to have a plan for internal planning purposes.

40 CFR Part 60 Subpart SSS

The NSPS for magnetic tape manufacturing facilities has a solvent usage cutoff for the applicability of controls. A facility using less solvent than the cutoff has certain recordkeeping and reporting requirements, but is not required to meet the emission limitations.

The rule currently requires owners or operators to which the cutoff applies to make and record semiannual estimates of the projected annual amount of solvent to be used in magnetic tape manufacturing for the calendar year [40 CFR 60.714(a)(1)], as well as record the actual amount solvent used in a year [40 CFR 60.714(a)(2)]. The owner or operator is also required to report the first semiannual estimate in which the annual solvent use as well as the exceedances based on the actual solvent used [60.717(c)(1)] would exceed the solvent usage cutoff [40 CFR 60.717(c)(1)]. The EPA proposes to delete the requirements for estimating and reporting the projected annual solvent use. Since there are already recordkeeping and reporting requirements related to the actual solvent use, the EPA believes it is unnecessary to require semiannual estimates of projected use. These records related to actual solvent use would be sufficient for identifying facilities that are potentially subject to the control requirements because of exceeding the cutoff. Further, the requirement at 40 CFR 60.710(b) that sources exceeding the applicability threshold remain subject to the emission controls and related requirements, effectively prevents circumvention of the control requirements, and is a more effective means of assuring timely application of emission controls than the projected semiannual estimates. Even if these estimates were not required to be recorded and reported, it may be in the best interest of the owner or operator to develop such estimates for planning purposes, to ensure compliance with standards.

40 CFR Part 60 Subpart XX and Part 63 Subpart R

Loading of gasoline into gasoline tank trucks and cargo tanks at bulk gasoline terminals under the NSPS (40 CFR 60.502(e) and 60.505) and MACT (40 CFR 63.420), respectively, is limited to vapor tight tanks which have been annually tested for vapor-tightness. Documentation of the test must be on file at the terminal. To implement this requirement, terminal owners and operators must cross check the gasoline tanks loaded against the test documentation on file within two weeks of loading of the tank. If proper documentation is lacking, terminal operators must take steps to assure that any tank will not be reloaded until test documentation is obtained. The change proposed in this action will reduce the frequency of cross checks if facilities have and continue to have a low number of cargo tanks or gasoline tank trucks without test documentation. Two reduced levels of monitoring frequency are proposed for terminals which exhibit very high compliance rates with the tank testing requirements. For terminals with less than an average of one gasoline tank per month over the past 26 weeks without documentation, the documentation cross check can be reduced from biweekly to quarterly. Terminals with even higher compliance rates, such that less than an average of one gasoline tank per month is loaded over the past 52 weeks without documentation need only cross check the vapor tightness documentation semiannually. The proposed revision does not change the level of the standard and EPA believes this action allows for reduced cross-checking without significant increased risk of excess emissions occurring, because this proposal would limit reductions in cross-checking frequency only for sources with high compliance rates. If these proposed conditions are not maintained by the terminal as determined by the next quarterly or semiannual cross-check, then the original cross-check monitoring frequency (every two weeks) is then required. Only changes in the regulatory text in the NSPS are required because the MACT cross-references the provisions in the NSPS.

Approximately 100 facilities will save about 190 hours per year resulting in a

total reduction in burden of approximately 19,000 hours per year.

40 CFR Part 60 Subpart CC and Part 61 Subpart N

Currently, 40 CFR Part 60 Subpart CC section 60.293(c) and Part 61 Subpart N section 61.263 require the installation of a CEM to measure opacity from the affected facility. During initial performance testing for PM emissions, 6-minute opacity averages are calculated. Based on the 6-minute averages, the corresponding 97.5 upper percentile is determined. After that, for the purpose of reporting excess emissions, all 6-minute periods with an average opacity greater than the 97.5 upper percentile are reported as excess emissions.

The recommended revision is to change the upper percentile determination from 97.5 percent to 99.0 percent. Since even the opacity levels corresponding to the 99th percentile were recorded when compliance with the particulate standard was achieved, this revision focuses the excess emission reports on the opacity levels more likely to be associated with exceedance of the particulate standard. The rule would then read, for the purpose of reporting excess emissions, all 6-minute periods with an average opacity greater than the 99.0 upper percentile are reported as excess emissions. The revision does not change the particulate emission limits in either rule, but would simply reduce the probability of reporting opacity levels which do not correspond to excess particulate emissions, and would therefore decrease reporting burden.

Although the level of reporting is slightly reduced, if a significant problem occurred the excess emissions report would still be triggered. Therefore, an adequate level of control is still maintained.

40 CFR Part 60 Subpart Ea

Today's action also proposes to change the reporting requirements included in the NSPS for Municipal Waste Combustors (MWCs) Subpart Ea from quarterly to annual with semiannual exception reporting. This revision will make the reporting frequencies and deadlines consistent throughout the NSPS and Emission Guidelines that apply to municipal waste combusters. MWCs are also covered by NSPS Subpart Eb and the Emission Guidelines (EGs) (i.e., Subpart Cb) for MWCs, which were promulgated in the Federal Register on December 19, 1995. The reporting requirements under the EGs and under NSPS Subpart Eb for MWCs require annual compliance reporting with semiannual exception reporting. This change to the reporting requirements in Subpart Ea, therefore, makes these reporting requirements consistent for all MWCs.

The EPA believes that semiannual reporting will be sufficiently timely for sources which have exceeded any emission limits or operating parameters. Further, EPA believes annual reporting of complying information from MWCs will provide adequate information for complying plants and is appropriate given the cost associated with reporting requirements. The EPA notes, however, that once an MWC is required to obtain a Title V operating permit, the semiannual Title V reporting requirements set forth in Section 504(a) of the Act will supersede the annual reporting requirements proposed here. See 42 U.S.C. 7661c(a)

Approximately 10 facilities will save about 230 per hours per year resulting in a total burden reduction of approximately 2,300 hours per year.

240 CFR Part 51 Subpart Q

The number of facilities currently required to report emission data will be reduced. The minimum emissions necessary to trigger a report will be raised from 100 to 200 tons per year of particulate matter, PM, sulfur oxides, VOC and nitrogen oxides. The minimum emissions necessary to trigger a report will be raised from 1000 to 2000 tons per year of carbon monoxide. Since Subpart Q does not require emission reductions but only reports to track emissions, this action does not have any adverse effect on the environment i.e., result in an increase of emissions to the atmosphere.

Approximately 54 facilites will save about 30 hours per year resulting in a total burden reduction of approximately 1,700 hours per year.

40 CFR Part 60 Subpart AAA

Correction to 40 C.F.R. Section 60.531

This proposed rulemaking clarifies the definition of ''wood heater'' under the New Source Performance Standards for Residential Wood Heaters, 40 CFR 60.530, et seq. The final rule, published February 26, 1988 (53 FR 5860), defines a wood heater as ''an enclosed, woodburning appliance capable of and intended for space heating and domestic water heating'' that meets certain specified criteria. The EPA, and the regulatory negotiating committee, which worked together to develop the definition of wood heater, intended the conjunction ''or'' rather than ''and'' be used after the words ''space heating'', thereby including in the definition all woodburning appliances capable of and intended for space heating or domestic water heating that met the specified criteria. This intent is evident in the definition of a wood heater in the proposed rule published February 18, 1987 (52 FR 4995, 52 FR 5015 and the Method 28 test protocol); and also in the preamble to the final rule (53 FR 5860) and at 40 C.F.R. 60, Subpart AAA, Method 28, section 2.12, where woodburning appliances are defined and specified as those ''capable of and intended for space heating or domestic water heating . . .'' Therefore, today's action is intended to correct an earlier typographical error.

Modification of § 60.536(f)(3)

The language for permanent labeling under § 60.536(f)(3) is amended to eliminate need for coal-only heaters to be emission tested before the rule can be applied. The rule previously applied only to affected facilities. In order for an appliance to be an affected facility, its emission rate must first be determined using the procedures specified in Method 28—Certification and Auditing of Wood Heaters. The Agency did not intend to require emission testing of coal-only heaters. The rule language is, therefore, modified to eliminate this unintended burden.

Removal of § 60.538

Section 60.538, Prohibitions, is removed from the rule. The purpose of this section was to aid in enforcing the preceding rule requirements; however, it also included several unintended dependencies, limitations and requirements. For instance, the prohibitions section does not allow a claim of violation of the removable label requirement unless the wood heater in question also has a permanent label. An unintentional dependence. Also, the prohibitions sections does not make failure to comply with the quality assurance requirements unlawful. Obviously, the Agency did not first promulgate quality assurance rules and then intentionally limit its ability to enforce those rules. Other such unintended linkages exist in the prohibitions section. Since each of the regulatory provisions in the rule can be enforced without the prohibitions language, this section is removed.

Burden Reduction

Correction of § 60.531 to clarify the definition of a wood heater, reduces the burden on both the manufacturer and the Agency by reducing the amount of resources needed to determine whether or not a given woodburning appliance is covered by the regulation.

Clarification of § 60.536(f)(3) to eliminate the requirement that the manufacturer of a coal-only heater perform an emissions test, reduces the burden on both the manufacturer and the Agency. This clarification reduces confusion as to how this regulation was meant to be applied, and eliminates the possibility that a coal-only heater would ever have to perform a Method 28 emissions test.

Removal of § 60.538, Prohibitions, also eliminates confusion as to how the regulations should be applied and reduces enforcement burden for both the manufacturer and Agency.

Solicitation of Comments

40 CFR Part 61 Subpart F

On October 21, 1976, EPA promulgated a national emission standard under the authority of Section 112 for vinyl chloride emissions from vinyl chloride, ethylene dichloride, and polyvinyl chloride plants. One critical component of that standard is Section 61.65(b) which contains specific provisions to address several types of fugitive emission sources. Among these were requirements for two separate programs for detecting equipment leaks: (1) a continuously operating fixed-point area monitoring system and (2) a program to periodically survey each potential leak source with a portable monitoring instrument. After the promulgation of the vinyl chloride standard, EPA conducted field studies to obtain information on various leak detection and repair programs at petroleum refineries and chemical plants. Subsequent standards for other pollutants and other source categories contained only the requirement for the portable monitoring system, not the fixed-point system. The first of these subsequent standards was a new source performance standard for volatile organic compound (VOC) fugitive emission sources in the Synthetic Organic Chemicals Manufacturing Industry, proposed January 5, 1981. As explained in the preamble to that proposed rule, fixed point monitoring systems were considered for that rule, but were not required (Vol. 46, No. 2 of Federal Register, page 1151). According to the Background Information Document for that proposed standard [VOC Fugitive Emissions in Synthetic Organic Chemicals Manufacturing Industry—Background Information for Proposed Standards (EPA–450/3–80–033a, November 1980, pages 4–3, 4–4)], the efficiency of a fixed-point system is limited to providing only a general area indication that leaks may be present. In addition, the document stated that leaks from adjacent units and meteorological conditions may affect the results obtained with a fixed-point system. The sensors for the fixed-point monitoring system are not as close to the leak interface as is required for the portable monitors. Further, a portable monitor is required even if a fixed monitor is used in order to identify the leaking source once a high reading is obtained on the fixed-point monitor. For these reasons, the fixed-point monitoring system was not required.

In response to President Clinton's initiative to reduce record-keeping and reporting burdens, EPA is requesting comment on the concept of removing the requirement for the fixed-point monitoring system and the associated record keeping from the vinyl chloride standard [Sections 61.65(b)(8)(i) and 61.71(a)(1)]. The requirement for fixed-point monitoring duplicates the purpose of the portable instrument leak detection and repair program and was decided for other standards to be the less efficient of the two programs. In addition, removing this requirement from the vinyl chloride standard would make that standard more consistent with other standards published subsequently for finding and fixing leaks.

On the other hand, plants affected by the vinyl chloride standard already have a fixed-point monitoring system in place. To the extent these systems detect equipment leaks, they have more of an opportunity to detect them sooner than the portable program so that repairs can be completed sooner. In addition, the fixed-point monitoring systems have an opportunity to alert owners and operators to other sources of fugitive emissions such as spills.

In order to consider removing the requirement for fixed-point monitors and the associated record keeping, EPA needs more data on the costs and emission reductions associated with the program. What cost savings would plants experience if the fixed-point monitoring system were removed? To what extent are equipment leaks being identified sooner with the fixed-point monitoring system than they would be with the portable monitoring program? To what extent are leaks being detected with the portable monitor that were not identified by the fixed-point monitor? What is the nature and frequency of identifying other sources of fugitive emissions (e.g., spills) with the fixed-point monitoring system? Any comments submitted should provide examples from experience and specific data to the extent possible.

Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the regulatory changes proposed in this notice. Persons wishing to make oral presentation on the proposed regulations should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Air and Radiation Docket and Information Center address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A–95–50.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Air and Radiation Docket and Information Center in Washington, DC (see **ADDRESSES** section of this preamble).

B. Analysis Under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act of 1996

Because the regulatory revisions proposed here would reduce the regulatory burden, this action is not a ''significant'' regulatory action within the meaning of Executive Order 12866, and does not impose any Federal mandate on State, local and tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. Further, EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule under the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act of 1996. The regulatory changes proposed here are expected to reduce regulatory burdens on small businesses, and are not expected to have any adverse effect on small businesses. Therefore, EPA certifies that this rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The proposed revisions to existing standards are intended to reduce existing recordkeeping and reporting requirements. In this notice EPA has explained the changes, identified who would be affected by the changes, and estimated the reductions associated with each change. EPA is interested in comments from the public on any and

all aspects of the paperwork burden reductions, including the number of affected entities and estimate of burden reduction.

Statutory Authority: The statutory authority for this proposal is provided by sections 101, 112, 114, 116 and 301 of the Clean Air Act, as amended; 42 U.S.C. 7401, 7412, 7414, 7416, and 7601.

List of Subjects

40 CFR Part 51

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

40 CFR Part 61

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Dated: August 5, 1996.

Carol Browner,

Administrator, Environmental Protection Agency.

For the reasons set out in the preamble title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S. C. 7401–7671q.

Subpart Q—[Amended]

2. Section 51.322 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 51.322 Sources subject to emissions reporting.

(a) * * *

(1) For particulate matter, PM sulfur oxides, VOC and nitrogen oxides, any facility that actually emits a total of 181.4 metric tons (200 tons) per year or more of any one pollutant. For particulate matter emissions, the reporting requirement ends with the reporting of calendar year 1987 emissions. For PM_{10} emissions, the reporting requirement begins with the reporting of calendar year 1988 emissions.

(2) For carbon monoxide, any facility that actually emits a total of 1814 metric tons (2000 tons) per year or more.

* * * * *

PART 60—[AMENDED]

1. The authority citation for part 60 is revised to read as follows:

Authority: 42 U.S.C. 7401–7601.

Subpart A—[Amended]

2. Section 60.7 is amended by removing and reserving paragraph (a)(2) and revising paragraphs (a) introductory text, (c) introductory text, and (f) to read as follows:

§ 60.7 Notification and recordkeeping.

(a) Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification, as follows:

* * * * *

(c) Each owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and-or summary report form (see paragraph (d) of this section) to the Administrator semiannually, except when: more frequent reporting is specifically required by an applicable subpart; or the Administrator, on a case-by-case basis, determines that more frequent reporting in necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the 30th day following the end of each calendar half. Written reports of excess emissions shall include the following information:

* * * * *

(f) Any owner or operator subject to the provisions of this part shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows. If the owner or operator, required to install a CEMS, achieves and maintains 95% valid hourly averages for the operating day, the owner or operator may retain block hourly average values for that operating day and discard, at or after the end of that operating day, the 15-minute or more frequent average values and readings recorded by the applicable CEMS.

* * * * *

3. Section 60.8 is amended by revising paragraph (d) to read as follows:

§ 60.8 Performance tests.

* * * * *

(d) The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Administrator as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Administrator by mutual agreement.

* * * * *

4. Section 60.19 is amended by revising paragraph (b) to read as follows:

§ 60.19 General notification and reporting requirements.

* * * * *

(b) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery, including the use of electronic media, agreed to by the permitting authority, is acceptable.

* * * * *

Subpart D—[Amended]

5. Section 60.45 is amended by revising paragraph (g) introductory text to read as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(g) Excess emission and monitoring system performance reports shall be submitted to the Administrator semiannually for each six-month period in the calendar year. All semiannual reports shall be postmarked by the 30th day following the end of each six-month period. Each excess emission and MSP report shall include the information required in § 60.7(c). Periods of excess emissions and monitoring systems (MS) downtime that shall be reported are defined as follows:

* * * * *

Subpart Da—[Amended]

6. Section 60.49a is amended by revising paragraph (i) to read as follows:

§ 60.49a Reporting requirements.

* * * * *

(i) The owner or operator of an affected facility shall submit the written reports required under this section and subpart A to the Administrator semiannually for each six-month period. All semiannual reports shall be postmarked by the 30th day following the end of each six-month period.

* * * * *

Subpart Db—[Amended]

7. Section 60.49b is amended by revising paragraphs (d), (e), (h) introductory text, (i), (j), (k)(2), (k)(3), (m) introductory text, (n)(1), (n)(2), (q) introductory text, (q)(2), (q)(3) (r), and paragraph(s) to read as follows:

§ 60.49b Reporting and recordkeeping requirements.

* * * * *

(d) The owner or operator of an affected facility shall record and maintain records of the amounts of each fuel combusted during each day and calculate the annual capacity factor individually for coal, distillate oil, residual oil, natural gas, wood, and municipal-type solid waste for the reporting period. The annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month.

(e) For an affected facility that combust residual oil and meets the criteria under §§ 60.46b(e)(4), 60.44b (j), or (k), the owner or operator shall maintain records of the nitrogen content of the residual oil combusted in the affected facility and calculate the average fuel nitrogen content for the reporting period. The nitrogen content shall be determined using ASTM Method D3431–80, Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons (IBR-see § 60.17), or fuel suppliers. If residual oil blends are being combusted, fuel nitrogen specifications may be prorated based on the ratio of residual oils of different nitrogen content in the fuel blend.

* * * * *

(h) The owner or operator of any affected facility in any category listed in paragraphs (h) (1) or (2) of this section is required to submit excess emission reports for any excess emissions which occurred during the reporting period.

* * * * *

(i) The owner or operator of any affected facility subject to the continuous monitoring requirements for nitrogen oxides under § 60.48(b) shall submit a report containing the information recorded under paragraph (g) of this section.

(j) The owner or operator of any affected facility subject to the sulfur dioxide standards under § 60.42b shall submit a report.

(k) * * *

(2) Each 30-day average sulfur dioxide emission rate (ng/J or 1b/million Btu heat input) measured during the reporting period, ending with the last 30-day period; reasons for noncompliance with the emission standards; and a description of corrective actions taken.

(3) Each 30-day average percent reduction in sulfur dioxide emissions calculated during the reporting period, ending with the last 30-day period; reasons for noncompliance with the emission standards; and a description of corrective actions taken.

* * * * *

(m) For each affected facility subject to the sulfur dioxide standards under § 60.42(b) for which the minimum amount of data required under § 60.47b(f) were not obtained during the reporting period, the following information is reported to the Administrator in addition to that required under paragraph (k) of this section:

* * * * *

(n) * * *

(1) Indicating what removal efficiency by fuel pretreatment (i.e., % R_f) was credited during the reporting period;

(2) Listing the quantity, heat content, and date each pretreated fuel shipment was received during the reporting period, the name and location of the fuel pretreatment facility; and the total quantity and total heat content of all fuels received at the affected facility during the reporting period.

* * * * *

(q) The owner or operator of an affected facility described in § 60.44b(j) or § 60.44b(k) shall submit to the Administrator a report containing:

* * * * *

(2) The average fuel nitrogen content during the reporting period, if residual oil was fired; and

(3) If the affected facility meets the criteria described in § 60.44b(j), the results of any nitrogen oxides emission tests required during the reporting period, the hours of operation during the reporting period, and the hours of operation since the last nitrogen oxides emission test.

(r) The owner or operator of an affected facility who elects to demonstrate that the affected facility combusts only very low sulfur oil under § 60.42b(j)(2) shall obtain and maintain at the affected facility fuel receipts from the fuel supplier which certify that the oil meets the definition of distillate oil as defined in § 60.41b. For the purposes of this section, the oil need not meet the fuel nitrogen content specification in the definition of distillate oil. Reports shall be submitted to the Administrator certifying that only very low sulfur oil meeting this definition was combusted in the affected facility during the reporting period.

(s) The reporting period for the reports required under this subpart is each six-month period. All reports shall be submitted to the Administrator and shall be postmarked by the 30th day following the end of the reporting period.

Subpart Dc—[Amended]

8. Section 60.48c is amended by revising paragraphs (c), (d), (e) introductory text, and (e)(11); and by adding paragraph (j) to read as follows:

§ 60.48c Reporting and recordkeeping requirements.

* * * * *

(c) The owner or operator of each coal-fired, residual oil-fired, or wood-fired affected facility subject to the opacity limits under § 60.43c(c) shall submit excess emission reports for any excess emissions from the affected facility which occur during the reporting period.

(d) The owner or operator of each affected facility subject to the SO_2 emission limits, fuel oil sulfur limits, or percent reduction requirements under § 60.42c shall submit reports to the Administrator.

(e) The owner or operator of each affected facility subject to the SO_2 emission limits, fuel oil sulfur limits, or percent reduction requirements under § 60.43c shall keep records and submit reports as required under paragraph (d) of this section, including the following information, as application.

* * * * *

(11) If fuel supplier certification is used to demonstrate compliance, records of fuel supplier certification is used to demonstrate compliance, records of fuel supplier certification as described under paragraph (f)(1), (2), or (3) of this section, as applicable. In addition to records of fuel supplier certifications, the report shall include a certified statement signed by the owner or operator of the affected facility that the records of fuel supplier certifications submitted represent all of the fuel combusted during the reporting period.

* * * * *

(j) The reporting period for the reports required under this subpart is each six-month period. All reports shall be submitted to the Administrator and shall be postmarked by the 30th day following the end of the reporting period.

Subpart Ea—[Amended]

9. Section 60.59a is amended by revising paragraphs (e), (f) and (g) to read as follows:

§ 60.59a Reporting and recordkeeping requirements.

* * * * *

(e)(1) The owner or operator of an affected facility located within a large MWC plant shall submit annual compliance reports for sulfur dioxide, nitrogen oxide (if applicable), carbon monoxide, load level, and particulate matter control device temperature to the Administrator containing the information recorded under paragraphs (b)(1), (2)(ii), (4), (5), and (6) of this section for each pollutant or parameter. The hourly average values recorded under paragraph (b)(2)(i) of this section are not required to be included in the annual reports. Combustors firing a mixture of medical waste and other MSW shall also provide the information under paragraph (b)(15) of this section, as applicable, in each annual report. Once the unit is subject to permitting requirements under Title V of the Act, the owner or operator of an affected facility must submit these reports semiannually.

(2) The owner or operator shall submit a semiannual report for any pollutant or parameter that does not comply with the pollutant or parameter limits specified in this subpart. Such report shall include the information recorded under paragraph (b)(3) of this section. For each of the dates reported, include the sulfur dioxide, nitrogen oxide, carbon monoxide, load level, and particulate matter control device temperature data, as applicable, recorded under paragraphs (b)(2)(ii)(A) through (D) of this section.

(3) Reports shall be postmarked no later than the 30th day following the end of the annual or semiannual period, as applicable.

(f)(1) The owner or operator of an affected facility located within a large MWC plant shall submit annual compliance reports, as applicable, for opacity. The annual report shall also list the percent of the affected facility operating time for the calendar half that the opacity CEMS was operating and collecting valid data. Once the unit is subject to permitting requirements under Title V of the Act, the owner or operator of an affected facility must submit these reports semiannually.

(2) The owner or operator shall submit a semiannual report for all periods when the 6-minute average levels exceeded the opacity limit under § 60.52a. The semiannual report shall include all information recorded under paragraph (b)(3) of this section which pertains to opacity, and a listing of the 6-minute average opacity levels recorded under paragraph (b)(2)(i)(A) of this section.

(3) Reports shall be postmarked no later than the 30th day following the end of the annual of semiannual period, as applicable.

(g)(1) The owner or operator of an affected facility located within a large MWC plant shall submit reports to the Administrator of all annual performance tests for particulate matter, dioxin/furan, and hydrogen chloride as recorded under paragraph (b)(7) of this section, as applicable, from the affected facility. For each annual dioxin/furan compliance test, the maximum demonstrated MWC unit load and maximum demonstrated particulate matter control device temperature shall be reported. Such reports shall be submitted when available and in no case later than the date of required submittal of the annual report specified under paragraph (e) of this section. Once the unit is subject to permitting requirements under Title V of the Act, the owner or operator of an affected facility must submit these reports semiannual.

(2) The owner or operator shall submit a report of test results which document any particulate matter, dioxin/furan, and hydrogen chloride levels that were above the applicable pollutant limit. The report shall include a copy of the test report documenting the emission levels and shall include the corrective action taken. Such reports shall be submitted when available and in no case later than the date required for submittal of any semiannual report required in paragraphs (e) or (f) of this section, or within six months of the date the test was conducted, whichever is earlier.

* * * * *

Subpart J—[Amended]

10. Section 60.107 is amended by revising paragraphs (a), (c) introductory text, (d), and (e) to read as follows:

§ 60.107 Reporting and recordkeeping requirements.

* * * * *

(a) Each owner or operator subject to § 60.104(b) shall notify the Administrator of the specific provisions of § 60.104(b) with which the owner or operator seeks to comply. Notification shall be submitted with the notification of initial startup required by § 60.7(a)(3). If an owner or operator elects at a later date to comply with an alternative provision of § 60.104(b), then the Administrator shall be notified by the owner or operator in the report described in paragraph (c) of this section.

* * * * *

(c) Each owner or operator subject to § 60.104(b) shall submit a report except as provided by paragraph (d) of this section. The following information shall be contained in the report:

* * * * *

(d) For any periods for which sulfur dioxide or oxides emissions data are not available, the owner or operator of the affected facility shall submit a signed statement indicating if any changes were made in operation of the emission control system during the period of data unavailability which could affect the ability of the system to meet the applicable emission limit. Operations of the control system and affected facility during periods of data unavailability are to be compared with operation of the control system and affected facility before and following the period of data unavailability.

* * * * *

(e) The owner or operator of an affected facility shall submit the reports required under this subpart to the Administrator semiannually for each six-month period. All semiannual reports shall be postmarked by the 30th

day following the end of each six-month period.

* * * * *

11. Section 60.108 is amended by revising paragraph (e) to read as follows:

§ 60.108 Performance test and compliance provisions.

* * * * *

(e) Each owner or operator subject to § 60.104(b) who has demonstrated compliance with one of the provisions of § 60.104(b) but a later date seeks to comply with another of the provisions of § 60.104(b) shall begin conducting daily performance tests as specified under paragraph (d) of this section immediately upon electing to become subject to one of the other provisions of § 60.104(b). The owner or operator shall furnish the Administrator with a written notification of the change in the semiannual report required by § 60.107(e).

Subpart CC—[Amended]

12. Section 60.293 is amended by revising paragraphs (c)(4), (c)(5), (d)(3) introductory text and (d)(3)(iii) to read as follows:

§ 60.293 Standards for particulate matter from glass melting furnace with modified-processes.

* * * * *

(c) * * *

(4) Determine, based on the 6-minute opacity averages, the opacity value corresponding to the 99 percent upper confidence level of a normal distribution of average opacity values.

(5) For the purposes of § 60.7, report to the Administrator as excess emissions all of the 6-minute periods during which the average opacity, as measured by the continuous monitoring system installed under paragraph (c)(1) of this section, exceeds the opacity value corresponding to the 99 percent upper confidence level determined under paragraph (c)(4) of this section.

(d) * * *

(3) An owner or operator may redetermine the opacity value corresponding to the 99 percent upper confidence level as described in paragraph (c)(4) of this section if the owner or operator:

* * * * *

(iii) Uses the redetermined opacity value corresponding to the 99 percent upper confidence level for the purposes of paragraph (c)(5) of this section.

* * * * *

Subpart NN—[Amended]

13. Section 60.403 is amended by revising paragraph (f) to read as follows:

§ 60.403 Monitoring of emissions and operations.

* * * * *

(f) Any owner or operator subject to the requirements under paragraph (c) of this section shall report on a frequency specified in § 60.7(c) all measurement results that are less than 90 percent of the average levels maintained during the most recent performance test conducted under § 60.8 in which the affected facility demonstrated compliance with the standard under § 60.402.

* * * * *

Subpart XX—[Amended]

14. Section 60.502 is amended by revising (e)(3) and (e)(4) to read as follows:

§ 60.502 Standards for Volatile Organic Compound (VOC) emissions from bulk gasoline terminals.

* * * * *

(e) * * *

(3)(i) The owner or operator shall cross-check each tank identification number obtained in paragraph (e)(2) of this section with the file of tank vapor tightness documentation within 2 weeks after the corresponding tank is loaded, unless either of the following conditions is maintained:

(A) If less than an average of one gasoline tank truck per month over the last 26 weeks is loaded without vapor tightness documentation then the documentation cross-check shall be performed each quarter; or

(B) If less than an average of one gasoline tank truck per month over the last 52 weeks is loaded without vapor tightness documentation then the documentation cross-check shall be performed semiannually.

(ii) If either the quarterly or semiannual cross-check provided in paragraphs (e)(3)(i) (A) through (B) of this section reveals that these conditions were not maintained, the source must return to biweekly monitoring until such time as these conditions are again met

(4) The terminal owner or operator shall notify the owner or operator of each nonvapor-tight gasoline tank truck loaded at the affected facility within 1 week of the documentation cross-check in paragraph (e)(3) of this section.

* * * * *

Subpart AAA—[Amended]

15. Section 60.531 is amended by revising the definition for ''wood heater'' to read as follows:

§ 60.531 Definitions.

* * * * *

Wood heater means an enclosed, woodburning appliance capable of and intended for space heating or domestic water heating that meets all of the following criteria:

(1) An air-to-fuel ratio in the combustion camber averaging less than 35-to-1 as determined by the test procedure prescribed in § 60.534 performed at an accredited laboratory;

(2) A usable firebox volume of less than 20 cubic feet;

(3) A minimum burn rate of less than 5 kg/hr as determined by the test procedure prescribed in § 60.534 performed at an accredited laboratory; and

(4) A maximum weight of 800 kg. In determining the weight of an appliance for these purposes, fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components that are not an integral part of the appliance or heat distribution ducting, shall not be included.

16. Section 60.536 is amended by revising paragraph (f)(3) to read as follows:

§ 60.536 Permanent label, temporary label, and owner's manual.

* * * * *

(f) * * *

(3) If an enclosed appliance capable of space heating, or domestic water heating is a coal-only heater as defined in § 60.530, the following statement shall appear on the permanent label:

U.S. Environment Protection Agency

This heater is only for burning coal. Use of any other solid fuel except for coal ignition purposes is a violation of Federal law.

* * * * *

§ 60.538 [Removed]

17. Section 60.538 is removed and reserved.

Subpart SSS—[Amended]

18. Section 60.714 is amended by revising paragraph (a) to read as follows:

§ 60.714 Installation of monitoring devices and recordkeeping.

* * * * *

(a) Each owner or operator of an affected coating operation that utilizes less solvent annually than the applicable cutoff provided in § 60.710(b) and that is not subject to § 60.712 (standards for coating operations) shall maintain records of actual solvent use.

* * * * *

19. Section 60.717 is amended by revising paragraphs (c) and (d) introductory text, to read as follows:

§ 60.717 Reporting and monitoring requirements.

* * * * *

(c) Each owner or operator of an affected coating operation initially utilizing less than the applicable volume of solvent specified in § 60.710(b) per calendar year shall report the first calendar year in which actual annual solvent use exceeds the applicable volume.

(d) Each owner or operator of an affected coating operation, or affected coating mix preparation equipment subject to § 60.712(c), shall submit semiannual reports to the Administrator documenting the following:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

Subpart A—[Amended]

§ 61.04 [Amended]

2. Section 61.04 is amended by revising paragraph (b) introductory text to read as follows:

* * * * *

(b) Section 112(d) directs the Administrator to delegate to each State, when appropriate, the authority to implement and enforce national emission standards for hazardous air pollutants for stationary sources located in such State. If the authority to implement and enforce a standard under this part has been delegated to a State, all information required to be submitted to EPA under paragraph (a) of this section shall also be submitted to the appropriate State agency (provided, that each specific delegation may exempt sources from a certain Federal or State reporting requirement). The Administrator may permit all or some of the information to be submitted to the appropriate State agency only, instead of to EPA and the State agency. If acceptable to both the Administrator and the owner or operator of a source, notifications and reports may be submitted on electronic media. The appropriate mailing address for those States whose delegation request has been approved is as follows:

* * * * *

Subpart L—[Amended]

3. Section 61.139 is amended by removing paragraphs (i)(1)(ii) and (j)(3); redesignating paragraphs (i)(1)(iii) and (i)(1)(v) as paragraphs (i)(1)(ii) and (i)(1)(iv), respectively; and revising the newly redesignated paragraph (i)(1)(iii), paragraph (j)(2) introductory text, and paragraph (j)(2)(iv) to read as follows:

§ 61.139 Provisions for alternative means for process vessels, storage tanks, and tar-intercepting sumps.

* * * * *

(i) * * *

(1) * * *

(iii) For each carbon adsorber, a plan for the method for handling captured benzene and removed carbon to comply with paragraphs (b) (1) and (2) of this section.

* * * * *

(j) * * *

(2) The following information shall be reported as part of the semiannual reports required in § 61.138(f).

* * * * *

(iv) For each vapor incinerator, the owner or operator shall specify the method of monitoring chosen under paragraph (f)(2) of this section in the first semiannual report. Any time the owner or operator change that choice, he shall specify the change in the first semiannual report following the change.

Subpart M—[Amended]

4. Section 61.142 is amended by revising paragraph (b)(6) to read as follows:

§ 61.142 Standard for asbestos mills.

* * * * *

(b) * * *

(6) Submit semiannually a copy of visible emission monitoring records to the Administrator if visible emissions occurred during the report period. Semiannual reports shall be postmarked by the 30th day following the end of the six-month period.

* * * * *

5. Section 61.144 is amended by revising paragraph (b)(8) to read as follows:

§ 61.144 Standard for manufacturing.

* * * * *

(b) * * *

(8) Submit semiannually a copy of the visible emission monitoring records to the Administrator if visible emission occurred during the report period. Semiannual reports shall be postmarked by the 30th day following the end of the six-month period.

6. Section 61.147 is amended by revising paragraph (b)(8) to read as follows:

§ 61.147 Standard for fabricating.

* * * * *

(b) * * *

(8) Submit semiannually a copy of the visible emission monitoring records to the Administrator if visible emission occurred during the report period. Semiannual reports shall be postmarked by the 30th day following the end of the six-month period.

Subpart N—[Amended]

7. Section 61.163 is amended by revising paragraph (c)(3) to read as follows:

§ 61.263 Emission monitoring.

* * * * *

(c) * * *

(3) Determine, based on the 6-minute opacity averages, the opacity value corresponding to the 99 percent upper confidence level of a normal or log-normal (whichever the owner or operator determines is more representative) distribution of the average opacity values.

* * * * *

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart A—[Amended]

2. Section 63.9 is amended by removing and reserving paragraph (b)(2)(iv).

3. Section 63.10 is amended by adding paragraphs (b)(2)(vii)(A) and (6)(2)(vii)(B) reserved and removing paragraph (e)(3)(i)(C) to read as follows:

§ 63.10 Recordkeeping and reporting requirements

* * * * *

(b) * * *

(2) * * *

(vii) * * *

(A) If the owner or operator of an affected source required to install a CEMS achieves and maintains 95% valid hourly averages for the operating day, the owner or operator may retain block hourly average values for that operating day and discard, at or after the end of that operating day, the 15-minute or more frequent average values and readings recorded by the applicable CEMS.

* * * * *

[FR Doc. 96–21672 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 799

[OPPTS–42187A; FRL–5395–9]

RIN 2070–AC76

Proposed Test Rule for Hazardous Air Pollutants; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA is holding a public meeting to give interested persons the opportunity for the oral presentation of data, views, or arguments and to make written submissions concerning the test rule which EPA has proposed under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers and processors of 21 hazardous air pollutants (HAPs) to test these substances for certain health effects. This proposed rule was published in the Federal Register of June 26, 1996 (61 FR 33178) (FRL–4869–1). A transcript will be made of the meeting and placed in the rulemaking record. This notice announces the date, time, and location of the meeting, and sets forth tentative topics for discussion. The meeting will be facilitated by by SiComm, an EPA contractor.

DATES: The public meeting will be held on October 1, 1996, from 9 a.m. to 5 p.m. Prospective attendees and those wishing to present oral comments at the meeting should notify EPA by no later than September 24, 1996. Written statements to be presented at the meeting should be received by EPA by no later than September 24, 1996. Written requests for additional meeting topics and requests for the agenda must be received by EPA by no later than September 24, 1996.

ADDRESSES: The meeting will be held in Washington, DC, at the Holiday Inn Capitol at Smithsonian, 550 C St., SW (telephone number: 202–479–4000). The Holiday Inn Capitol is one block east of the L'Enfant Plaza Metro station (Department of Transportation exit).

The address and telephone number of the meeting facilitator is: Anne Bowen, SiComm, 4401 East West Highway, Suite 308, Bethesda, MD 20814, telephone: (301) 718–9820; fax: (301) 652-7001.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404; TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

For general meeting information contact Anne Bowen at the address specified under ''ADDRESSES.''

For technical information contact: Robert A. Reiley, Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–1105; fax: (202) 260–1096; e-mail: reiley.robert@epamail.epa.gov; or Gary E. Timm, Senior Technical Advisor, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–1859; fax: (202) 260–8168; e-mail: timm.gary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The HAPs rule proposed testing of biphenyl, carbonyl sulfide, chlorine, chlorobenzene, chloroprene, cresols [3 isomers], diethanolamine, ethylbenzene, ethylene dichloride, ethylene glycol, hydrochloric acid, hydrogen fluoride, maleic anhydride, methyl isobutyl ketone, methyl methacrylate, naphthalene, phenol, phthalic anhydride, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, and vinylidene chloride for certain specified health effects (61 FR 33178, June 26, 1996). EPA would use the data generated under the rule, proposed under section 4(a) of TSCA, to implement several provisions of section 112 of the Clean Air Act and to meet other EPA data needs and those of other Federal agencies. In addition, in the HAPs proposal EPA solicited proposals for enforceable consent agreements regarding the performance of pharmacokinetics studies which would permit extrapolation from oral data to predict effects from inhalation exposure. The proposed rule and supporting documents can be obtained on the internet: http://www.epa.gov or gopher.epa.gov. Search under ''Rules, Regulations, Legislation,'' ''Federal Register Environmental Subset,'' ''Federal Register--Toxics,'' ''June 26.''

In the preamble to the proposed rule, EPA announced that it would hold a public meeting in Washington, DC prior to the close of the comment period. The purpose of this meeting is to facilitate an exchange of views, a discussion of issues, and meaningful comment on the HAPs proposal. The meeting will be open to the public. Persons who wish to attend or present oral comments at the meeting should notify Anne Bowen at the address specified under ''ADDRESSES'' by no later than September 24, 1996. Persons who wish to submit written statements at the meeting are requested to submit copies of such statements to Anne Bowen at the address listed under ''ADDRESSES.'' These statements should be received by no later than September 24, 1996, so that the statements can be made available to the public at the meeting. For statements not received by September 24, 1996, commenters are requested to bring at least 50 copies to the meeting so that they can be made available to the meeting attendees. A transcript will be made of the meeting. The transcript and the written statements will be placed in the rulemaking record.

The following topics will be discussed at the meeting:

1. Emissions and exposure measurements.
2. Residual risk assessments.
3. Pharmacokinetics studies.
4. Acute data needs.
5. Low-vapor pressure hazardous air pollutants.

Similar topics will be grouped together. Other items may be added if requested. Such requests must be made in writing to Robert Reiley at the address specified under ''ADDRESSES'' and received by no later than September 24, 1996. Upon request to Anne Bowen, a copy of the agenda will be faxed to those requesting it on or after September 26, 1996, but prior to the meeting date. The agenda will also be posted on the internet.

List of Subjects in Part 799

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 6, 1996.

Charles M. Auer,

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

[FR Doc. 96–23217 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2090, 2110, and 2130

[WO–420–1050–00–24 1A]

RIN 1004–AC98

Gifts; Acquisition of Lands or Interest in Lands by Purchase or Condemnation

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to remove

the regulations that explain the procedures for donating land to the Department of the Interior, and those that describe the Department's authority to acquire land by purchase or condemnation under the King Range National Conservation Area Act. These regulations are either statements of policy, internal procedures, or restatements of statutory provisions. BLM believes, therefore, that they can be deleted without having any substantive impact on the public.

DATES: Any comments must be received by BLM on or before October 11, 1996. Comments received after the above date will not necessarily be considered in the decisionmaking process on the final rule.

ADDRESSES: If you wish to comment, you may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L St., NW., Washington, DC; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, DC 20240. You also may transmit comments electronically via the Internet to WOCommentWO0033wp.wo.blm.gov. Please include ''attn:[D. Beaver, RIN 1004–AC ____]'' in your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly. You will be able to review comments at BLM's Regulatory Management Team office, Room 401, 1620 L St., NW, Washington, D.C., during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David Beaver, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240; Telephone: 202–452–7788.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment addresses. BLM will not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

II. Background

This rule is part of an initiative that BLM is undertaking to make its regulations more understandable and relevant. We are doing this by limiting our regulatory material as much as possible to requirements affecting the public in order to carry out our programs under the law. Regulations that do not meet this test are removed and, if necessary, placed in other more appropriate publications, such as manuals and brochures. The regulations to be removed by this rule are repetitive of statutory language, informational, or obsolete. BLM does not require that these procedures any longer exist in the Code of Federal Regulations.

III. Discussion of Proposed Rule

The provisions of 43 CFR part 2110, with the exception of Section 2111.4-Status of Lands, and 43 CFR part 2130 have no substantive purpose and can be placed in the BLM manual or in other publications readily available to the public. Subpart 2110 merely restates statutory provisions found in various sections of the U.S. Code, including two statutory sections that have been repealed. The only exception is the purpose statement of subsection 2110.0–1, which provides statements of policy concerning the Secretary's discretion to accept gifts of land. Since its non-binding terms do not materially affect the public at large, this provision will be removed in order to enhance flexible decision-making. Subsection 2111.4 will be retained in 43 CFR subpart 2091; the remainder of 43 CFR subpart 2111 largely exists already in the BLM Manual/Handbook (H–2101–1), and any aspect not already found in the Manual/Handbook can be incorporated therein.

The provisions of 43 CFR part 2130 are unnecessary because they either merely restate statutory language, or contain policy directives which should be relocated to the BLM Manual/Handbook. Subpart 2130 consists entirely of restatements of the King Range National Conservation Area Act, 16 U.S.C. 460y, concerning the authority of the Secretary to purchase and condemn lands. Subpart 2137 contains two policy statements that should be relocated to the BLM Manual/Handbook: subsection 2137.0–7 concerns BLM's policy of appraising acquired property, an internal procedure derived from 16 U.S.C. § 460y–4(4); and subsection 2137.0–9 concerns the BLM policy of resorting to eminent domain as a last option. With the exception of 43 CFR 2111.4, which this rule will relocate to part 2091, no portion of either part 2110 or part 2130 contains any necessary substance which guides the public in any meaningful way; rather, the regulations to be removed serve only to guide BLM decisions, or no purpose at all. Therefore, removing and relocating these sections as described above will streamline the Code of Federal Regulations and enhance BLM's efficiency without materially affecting the public.

IV. Procedural Matters

National Environmental Policy Act

The BLM has prepared an environmental assessment (EA), and has found that the proposed rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously. The BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**), and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the *Written Comments* section above, or contact us directly.

Paperwork Reduction Act

The proposed rule does not contain information collection requirements which the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory

action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Unfunded Mandates Reform Act

This rule will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of $100,000,000 or more in any one year.

Executive Order 12612

The proposed rule would not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment.

Executive Order 12630

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the proposed rule is to abolish unnecessary regulations, it does not raise takings implications, or require further discussion under this Executive Order.

Executive order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author. The principal author of this rule is David Beaver, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240; Telephone: 202–452–7788 (Commercial of FTS).

List of Subjects

43 CFR Part 2090

Airports, Alaska, Coal, Grazing lands, Indians-lands, Public lands, Public lands-classification, Public lands-mineral resources, Public lands-withdrawal, Seashores.

43 CFR Part 2110

Government Property, Public lands.

43 CFR Part 2130

Public lands.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, subchapter B, chapter II of title 43 of the Code of Federal Regulations are amended as set forth below:

PART 2090—[AMENDED]

1.The authority for part 2090 is revised to read as follows:

Authority:16 U.S.C. 3124; 30 U.S.C. 189; 43 U.S.C. 322, 641, 1201, 1624, 1740.

2. Newly redesignated 2091.8 is revised to read as follows:

§ 2091.8 Status of gift lands.

Upon acceptance by the United States, through the Secretary of the Interior, of a deed of conveyance as a gift, the lands or interests so conveyed will become property of the United States but will not become subject to applicable land and mineral laws of this title unless and until an order to that effect is issued by BLM.

PART 2110—GIFTS

§ 2111.4 [Redesignated § 2091.8]

3. Section 2111.4 is redesignated as § 2091.8 in subpart 2091.

PART 2110—[REMOVED]

4. Part 2110 is removed in its entirety.

PART 2130—[REMOVED]

5. Part 2130 is removed in its entirety.

Dated: August 27, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

[FR Doc. 96–22702 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Part 2200

[WO–420–1050–00–24 1A]

RIN 1004–AC97

National Forest Exchanges

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule deletes the regulations which address National Forest Exchanges. This section is no longer needed because it duplicates material contained in BLM's general exchange regulations as well as in the Forest Service's land exchange regulations. BLM proposes to extend the general exchange regulations to include National Forest System lands.

DATES: Any comments must be received by BLM on or before October 11, 1996. Comments received after the above date will not necessarily be considered in the decisionmaking process on the final rule.

ADDRESSES: Commenters may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L St., NW, Washington, DC, or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, DC 20240. Commenters may transmit comments electronically via the Internet to: WOComment@WO0033wp.wo.blm.gov. [For internet, please include ''Attn.: AC##'', your name, and return address in your message.]

Comments will be available for public review at the L Street address during regular business hours from 7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ted Milesnick, Special Areas and Land Tenure Team, Bureau of Land Management, at (202) 452–7727.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background and Discussion of Proposed Rule
III. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment addresses. BLM may not necessarily consider or include in the Administrative Record for the rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

II. Background and Discussion of Proposed Rule

BLM is deleting 43 CFR Subpart 2202 because it virtually duplicates sections contained elsewhere in BLM's regulations at 43 CFR 2201.1–2. Subpart 2202 requires that exchange proposals for the consolidation or extension of national forests be filed with the appropriate officer of the Forest Service. It further says that a request may be made to BLM to segregate the National Forest System lands involved in the exchange from appropriation under the public land laws and the mineral laws and also that any interests of the United States in the non-Federal lands to be acquired may be segregated from the mineral laws. The period of these segregations would not exceed 5 years from the date of notation.

Similar language can be found at section 2201.1–2 (as well as in the

Forest Service regulations at 36 CFR Part 254, Subpart A) with only two differences, First, section 2201.1–2 does not include the authorities cited at section 2202.1(a) for the exchange of National Forest System lands, or the statement that proposals for exchange of such lands must be filed with the Forest Service in accordance with 36 CFR Part 254. Secondly, section 2201.1–2 currently applies to ''Federal lands,'' i.e., lands administered by BLM, and not to National Forest System lands. However, BLM proposes to amend this section to apply its provisions to National Forest System lands as well (in harmony with Forest Service regulations at 36 CFR 254.6.) This will insure that the removal of 43 CFR 2202 does not alter any existing rights or obligations. This proposed rule accomplishes that amendment, renders subpart 2202 completely redundant and unnecessary, and removes subpart 2202 from the Code of Federal Regulations.

III. Procedural Matters

National Environmental Policy Act

BLM has determined that this proposed rule makes no substantive changes to the Code of Federal Regulations, because it is limited to removing provisions which are found in their entirety elsewhere in Title 43 of the CFR and are therefore wholly unnecessary. Therefore, this change is purely technical in nature and is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10. Furthermore, the rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Removal of 43 CFR part 2202 will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of $100,000,000 or more in any one year.

Executive Order 12612

The proposed rule would not have sufficient federalism implications to warrant BLM's preparation of a Federalism Assessment.

Executive Order 12630

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property, or require further discussion of takings implications under this Executive Order.

Executive Order 12866

According to the criteria listed in section 3 (f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The principal author of this rule is Ted Milesnick, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240; Telephone: 202–452–7727 (Commercial or FTS).

List of Subjects in 43 CFR Part 2200

National forests; Public lands.

For the reasons stated in the preamble, part 2200, group 2200, subchapter B, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 2200—[Amended]

1. The authority citation for part 2200 continues to read as follows:

Authority: 43 U.S.C. 1716, 1740.

2. Section 2201.1–2 is amended to add paragraph (e) to read as follows:

§ 2201.1–2 Segregative effect.

* * * * *

(e) The provisions of this section apply equally to proposals to exchange National Forest System lands under the authority and provisions of the Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, and the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.*, except that if a proposal is made to exchange National Forest System lands, which proposal shall be filed in compliance with 36 CFR part 254, the authorized officer may request that the appropriate BLM State Office segregate such lands by a notation on the public land records.

2. Subpart 2202 is removed in its entirety.

Dated: August 27, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

[FR Doc. 96–22703 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Public Comment Period on Proposed Endangered Status for Nine Plants From the Grasslands or Mesic Areas of the Central Coast of California

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a public hearing and reopening of the comment period on the proposed endangered status for *Alopecurus aequalis* var. *sonomensis* (Sonoma alopecurus), *Astragalus clarianus* (Clara Hunt's milkvetch), *Carex albida* (white sedge), *Clarkia imbricata* (Vine Hill clarkia), *Lilium pardalinum* ssp. *pitkinense* (Pitkin Marsh lily), *Plagiobothrys strictus* (Calistoga allocarya), *Poa napensis* (Napa bluegrass), *Sidalcea oregana* ssp. *valida* (Kenwood Marsh checkermallow), and *Trifolium amoenum* (showy Indian clover). All parties are invited to comment on this proposal.

DATES: The public hearing will be held from 6 p.m. to 8 p.m. on Thursday, October 3, 1996, in Novato, California. The public comment period, which closed on October 9, 1995, is now reopened upon publication of this document, and will close on October 15, 1996. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Novato Oaks Inn, 215 Alameda del Prado, Novato, California. Written comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Fuller, Sacramento Field Office (see **ADDRESSES** section) at (916) 979–2120; facsimile (916) 979–2128.

SUPPLEMENTARY INFORMATION:

Background

Alopecurus aequalis var. *sonomensis, Astragalus clarianus, Carex albida, Clarkia imbricata, Lilium pardalinum* ssp. *pitkinense, Plagiobothrys strictus, Poa napensis, Sidalcea oregana* ssp. *valida,* and *Trifolium amoenum* are plant species in a variety of habitats, including valley grasslands, meadows, freshwater marshes, seeps, and broad-leaf upland forests in Marin, Napa, and Sonoma Counties on the central coast of California. Habitat loss and degradation, competition from aggressive plant species, elimination through plant community succession, grazing, collection for horticultural use, and hydrological modifications to wetland areas threaten the continued existence of these plants.

On August 2, 1995, the Service published a proposed rule to list *Alopecurus aequalis* var. *sonomensis* (Sonoma alopecurus), *Astragalus clarianus* (Clara Hunt's milkvetch), *Carex albida* (white sedge), *Clarkia imbricata* (Vine Hill clarkia), *Lilium pardalinum* ssp. *pitkinense* (Pitkin Marsh lily), *Plagiobothrys strictus* (Calistoga allocarya), *Poa napensis* (Napa bluegrass), *Sidalcea oregana* ssp. *valida* (Kenwood Marsh checkermallow), and *Trifolium amoenum* (showy Indian clover). Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 et seq.) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. A public hearing request dated August 28, 1995, was received from John Bucher, President of the Sonoma County Farm Bureau, Sonoma, California. Because a Congressional moratorium on the Service's activities associated with final listing actions was in effect from April 1995 to April 1996, scheduling of the hearing was delayed. The Service has now scheduled a public hearing to be held on Thursday, October 3, 1996, from 6 p.m. to 8 p.m. at the Novato Oaks Inn, 215 Alameda del Prado, Novato, California.

Anyone wishing to make statements for the record should bring a written copy of their statements to the hearing. Oral statements may be limited in length if the number of parties present at the hearing necessitates such a limitation. Oral and written comments receive equal consideration. The Service places no limits on the length of written comments or materials presented at the hearing or mailed to the Service.

The comment period on the proposal was initially closed on October 9, 1995. To accommodate the hearing, the public comment period is reopened upon publication of this notice. Written comments may now be submitted until October 15, 1996, to the Service office in the **ADDRESSES** section.

Author

The primary authors of this notice are Elizabeth Warne and Ken Fuller (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 3, 1996.

Thomas Dwyer,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 96–23027 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 61, No. 177
Wednesday, September 11, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

Summary: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Friday, September 13, 1996. The meeting will be held in Room M09 at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C., beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, and Transportation; the Administrators of the Environmental Protection agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native American or Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II Swearing in of New Member
III. Report of the Task Force on the Council's Future
IV. Report of the Task Force on the 30th Anniversary of the NHPA
V. Report of the Task Force on Regulations
VI. Presidential Historic Preservation Directives
VII. Council Policy Statement on Empowerment Zones/Enterprise Communities
VII. Executive Director's Report
IX. New Business
X. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, D.C., 202–606–8503, at least seven (7) days prior to the meeting.

For further information contact: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., 809, Washington, DC 20004.

Dated: September 5, 1996.

Robert D. Bush,

Executive Director.

[FR Doc. 96–23029 Filed 9–10–96; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Water Rights Task Force

AGENCY: Forest Service, USDA.

ACTION: Notice; establishment of task force and initial meeting.

SUMMARY: This notice announces the establishment and initial meeting of the Water Rights Task Force established on August 20, 1996, by Congress and the Secretary of Agriculture in accordance with the provisions of the Federal Advisory Committee Act and the Federal Agricultural Improvement and Reform Act of 1996, as amended by the Fiscal Year 1997 Agricultural Appropriations Act. The Congress and the Secretary have determined that the Water Rights Task Force is necessary and in the public interest and, accordingly, the Forest Service has scheduled the first meeting of the Task Force in Denver, Colorado, on September 23 from 1:00 p.m. to 4:30 p.m. and on September 24 from 8:00 a.m. to noon.

DATES: The initial meeting will be held September 23–24, 1996.

ADDRESSES: The meeting will be held at the Forest Service's Rocky Mountain Regional Office, 740 Simms Street, Golden, CO 80401. Send written comments to Eleanor Towns, FACA Liaison, Water Rights Task Force, c/o USDA Forest Service, P.O. Box 96090, Washington, DC 20090–6090. Telephone: (202) 205–1248; Fax: (202) 205–1604.

FOR FURTHER INFORMATION CONTACT: Steve Classer, Watershed & Air Management Staff, Telephone: (202) 205–1172; Fax: (202) 205–1096.

SUPPLEMENTARY INFORMATION: The Water Rights Task Force (Task Force) is composed of seven members appointed by Congress and the Secretary of Agriculture. The purpose of the Task Force is to study and make recommendations on: (a) whether Federal water rights should be acquired for environmental protection on National Forest System lands; (b) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service; (c) the protection of minimum instream flows for environmental and watershed management purposes through purchases or exchanges from willing sellers in accordance with State law; (d) the effects of any of the recommendations upon State laws, regulations, and customs of water usage; and (e) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for environmental stewardship, the public interest, and property rights and interests of water holders with special use authorizations for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

Copies of the Task Force's charter are being filed with the appropriate committees of Congress and the Library of Congress in accordance with section 9(c) of the Federal Advisory Committee Act.

The objectives of the initial meeting are for the Task Force to elect a chairperson and develop a plan for carrying out its assigned responsibilities. The meeting is open to the public and will be chaired by the Forest Service liaison to the Task Force. Time will be provided each day for public input at times to be scheduled by the chairperson. However, Task Force discussion is limited to Forest Service personnel and Task Force members. Persons who wish to bring water rights matters to the attention of the Task Force may file written statements with the Forest Service liaison before or after the meeting.

The Task Force shall terminate either in August 1997 or upon the submission of a final report.

Dated: September 4, 1996.

Jack Ward Thomas,

Chief.

[FR Doc. 96–23062 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF INTERIOR

Bureau of Land Management

Interior Columbia Basin Ecosystem Management Project

AGENCIES: Forest Service, USDA; Bureau of Land Management, Interior.

ACTION: Revised notice of intent to prepare environmental impact statements.

SUMMARY: Interior Columbia Basin Ecosystem Management Project (ICBEMP). The primary purpose for this revised notice of intent is to provide public notice of the updated completion schedule for the ICBEMP's environmental impact statements (EIS). The Bureau of Land Management and Forest Service will continue the interim management strategies pending completion of the ICBEMP EISs. Due to differences between Bureau of Land Management (Bureau of Land Management NEPA Handbook 1790–1) and Forest Services (Forest Service Handbook 1909.15, at 18.1) NEPA policies, the Bureau of Land Management is preparing a supplemental environmental assessment for the continuation of the PACFISH (see below in Supplementary Information), while the Forest Service has provided information in this notice, in compliance with Forest Service policies, to address the continuation of the PACFISH interim direction.

Due to the complexity of an analysis of this scope, and the government shutdown in the first part of FY96, the timeframe for completing the environmental impact statements (EISs) has changed. The new schedule for release of the draft EISs is Fall 1996, for the public comment period; the public comment period will be 120 days. The adjusted schedule for the release of the final EISs and Records of Decision is Fall 1997.

In February, 1994, the Bureau of Land Management and Forest Service proposed to develop and adopt a coordinated ecosystem management strategy for national forests and public lands east of the Cascade Mountains in Oregon and Washington (59 FR 4680, February 1, 1994). The strategy later became known as the Interior Columbia Basin Ecosystem Management Project. The ICBEMP strategy will include direction which will protect and enhance aquatic ecosystems for anadromous fish and inland native trout and terrestrial ecosystems. It will also address the social and economic interactions with these biological variables. The purpose is to carry out President Clinton's mandate of July 1993 to develop a scientifically sound and ecosystem-based strategy for management of these lands. The selected alternative may result in amendment to the Forest Service Regional Guides and/or amendment or revision of applicable national forest land management plans and Bureau of Land Management resource management plans.

The original Notice of Intent for the ICBEMP effort was revised on May 23, 1994, to address changes in the scope of the area to be considered in the analysis and to establish a public meeting schedule (59 FR 26624). A third Federal Register notice was published on December 7, 1994, announcing the preparation of an EIS for the Upper Columbia River Basin (UCRB) (59 FR 63071). A fourth notice was published on August 7, 1994, changing the scope of the UCRB planning area. (60 FR 40153). On August 25, 1994, a fifth Federal Register notice was published revising the completion date for the Eastside EIS (60 FR 44298). The Bureau of Land Management and Forest Service will now produce two EISs, one for eastern Oregon and Washington (Eastside EIS) and one for Idaho, western Montana, and small portions of Nevada, Wyoming, and Utah (UCRB).

FOR INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Summary of Public Involvement for the Long-Term Management Strategy

Formal scoping periods, under National Environmental Policy Act (NEPA), opened with publication of the Notice of Intent in the Federal Register to prepare an EIS and conduct planning activity for the Eastside Ecosystem Management Project on February 1, 1994 and for the Upper Columbia River Basin on December 7, 1994.

Public meetings, open houses, symposiums, briefings, workshops, Internet access, toll-free numbers, information centers, teleconferences, brochures and newsletters provide opportunities for the public to be involved. Over 350 public meetings and briefings were held throughout the project area from February 1994 through July 1996.

The teleconference scoping meeting for the UCRB was held simultaneously in 27 planned locations on January 28, 1995 via satellite. Local Bureau of Land Management and Forest Service staff were on hand to facilitate discussions, part of which was devoted to sharing and responding to comments and concerns from the 27 sites. The scoping meeting was also broadcast over three public access television stations. In addition, anyone with access to a satellite dish within the continental United States was able to view the program and respond via fax.

Many levels of government participated throughout the planning process including Federal and State agencies, Counties, Resource Advisory Councils, Province Advisory Committees, and Tribes. This has developed into effective partnerships and increased coordination and understanding between the groups.

Mailing lists for the EISs were compiled from Bureau of Land Management and Forest Service offices within the ICBEMP area and from the PACFISH mailing list. As other interested parties requested to be added to the mailing list the total number of persons on the list rose to 4,800.

Public involvement has been a vital and continuing aspect of the Eastside and UCRB planning process. NEPA requirements have been exceeded by involving people early and often, sharing information as it became available even if it was in draft form, and using non-traditional public involvement methods.

This type of public involvement will continue with the release of the draft EISs and through the Records of Decision. Teleconference, meetings, and workshops are planned as ways to continue to provide opportunities for the public to understand and shape the final management strategy.

The Notices of Intent for Eastside EIS and the UCRB EIS, and the Charter for the ICBEMP include objectives for the EISs and Scientific Assessment to develop the basis for management direction to modify and implement Strategies for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California (PACFISH).

A May 1995 mailer sent to the public by the Project, solicited comments on goals for the development of alternatives. There were seven primary goals including provisions for long-term direction that would replace PACFISH and the Inland Native Fish Strategy. Based on public responses and input from the ICBEMP Interdisciplinary Team, the seven goals were refined into five. Development of long-term aquatic conservation strategy became part of Goal 1, which is to sustain and where necessary restore the health of forest, rangeland, aquatic and riparian ecosystems.

In September 1995, a mailer outlining seven alternatives was sent to the public. Several of the alternatives under consideration would adopt PACFISH as a long-term strategy either as currently described, or with minor refinements.

Comments and responses on all alternatives, including those alternatives which adopt PACFISH and INFISH for the long term, plus alternatives which refine those strategies, will be accepted through the comment period on the draft EISs.

Summary of Public Involvement for the Interim Strategies

Due to concerns over the possible effects to aquatic and terrestrial species and their habitats during the development of a long-term strategy, three sets of interim measures were put in place. *First* on August 18, 1993 the Forest Service Region Six adopted the Eastside Screens as interim direction in Oregon and Washington establishing riparian, ecosystem, and wildlife standards for timber sales. On May 24, 1994, this interim direction, with some modification, was continued through an environmental assessment. *Second,* on February 24, 1995, direction was adopted to assure protection of habitat for anadromous fish species within the Columbia River Basin and portions of California (PACFISH). *Third,* on July 28, 1995, INFISH was adopted by the Forest Service to protect habitats for native inland fish. PACFISH and INFISH direction supersede the direction contained in the Eastside Screens for riparian area and aquatic management. Eastside Screens for riparian areas were modified by PACFISH and INFISH for two primary reasons, first, the Eastside Screens only applied to timber management, whereas PACFISH and INFISH included other resource management considerations; second, the Eastside Screens were too restrictive in that they did not allow for silvicultural practices that may be needed to benefit riparian plant and animal communities.

As a general rule, all of the Eastside forests (eastern Oregon and Washington), not covered by the Northwest Forest Plan, are covered by either the PACFISH or the INFISH standards. However, some forests such as the Wallowa-Whitman National Forest in Oregon have a portion of the forest covered by the PACFISH, due to the presence of anadromous fish watersheds, and the remaining portion of the forest is covered by the INFISH.

PACFISH. Document Title: Decision Notice/Decision Record, Finding Of No Significant Impact for the Interim Strategies for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California, February 24, 1995.

A Notice of Availability for the PACFISH environmental assessment and proposed finding of no significant impact was published in the Federal Register (March 25, 1994, 58 FR 14356), with a 45 day public comment period. This comment period was extended for two weeks, until May 23, 1994 (85 FR 23049). The Bureau of Land Management and Forest Service received over 500 written comments; of which over 90 percent were from within the geographic range of the proposed action.

EASTSIDE SCREENS. Document Title: Decision Notice for the Continuation of Interim Management Direction Establishing Riparian, Ecosystem and Wildlife Standards for Timber Sales, USDA Forest Service, Region 6, Colville, Deschutes, Fremont, Malheur, Ochoco, Okanogan, Umatilla, Wallowa-Whitman, and Winema National Forests in Oregon and Washington, May 20, 1994.

This Decision Notice identified that the Interim Direction of August 18, 1993, as modified in the Regional Forester's Plan Amendment #1, was continued pending completion of the Eastside Ecosystem Management Strategy, now known as the ICBEMP. The ecosystem management strategy will be displayed in the ICBEMP Eastside EIS. This interim direction applied to the design of timber sales in certain riparian areas (now replaced by the PACFISH and INFISH direction), and applies to late and old structural forest stands. On December 28, 1993, a Notice of opportunity to comment was published in every paper of record in Eastern Oregon and Washington. The Forest Service received 19 comment letters and one citizen petition, bearing about 150 signatures. These submissions included nearly 270 discrete comments, reflecting a variety of support for and criticisms of the interim direction.

INFISH. Document Title: Decision Notice and Finding Of No Significant Impact for the Inland Native Fish Strategy, USDA Forest Service, July 28, 1995.

In response to growing concerns over the status of inland native fish communities and their habitats throughout the inland west, the Forest Service, working with the US Fish and Wildlife Service, developed an interim conservation strategy referred to as INFISH. The purpose of INFISH is to provide interim direction, similar to PACFISH, that applies to those areas not covered by PACFISH or the Northwest Forest Plan. This interim direction was developed to maintain management options for inland native fish habitat while the Bureau of Land Management and Forest Service developed long-term management strategies. Another purpose of the interim direction was to take prudent measures to arrest the degradation, and begin the restoration, of riparian and aquatic ecosystems in watersheds where inland native fish habitat is present.

Initital outreach for the INFISH project was sent to over 5000 people, of which approximately 1700 desired to remain on the mailing list. A scoping period was established from March 14 to April 26, 1995. This was followed by mailing the environmental assessment and draft FONSI in June and several public hearings. Overall, 29 people testified, and 91 written comments were received.

Supplemental information for the Environmental Assessment (EA)

DOCUMENT TITLE: Implementation of Interim Strategies for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, and Portions of California (PACFISH)

CONTINUATION OF PACFISH. When the Decision Notice/Decision Record for PACFISH was signed it was the intent of the Bureau of Land Management and Forest Service that long-term direction would be provided by the ICBEMP within 18 months, and the effects analysis in the EA was based on this assumption. The Bureau of Land Management and Forest Service designed PACFISH as an interim measure to preserve options until the ICBEMP is put in place. Because the ICBEMP has taken longer than expected to develop, the Bureau of Land Management and Forest Service have decided to keep the PACFISH interim direction in place for the same extended period.

This scheduling notice does not address in detail the other interim

measures, INFISH and Eastside Screens, because of important differences between these interim strategies and PACFISH. INFISH was implemented for an approximately 18 month period beginning in August 1995. (60 FR 33927, August 4, 1995). Accordingly, the revised schedule for the implementation of the ICBEMP does not extend INFISH appreciably beyond the approximate time-period originally anticipated. Meanwhile, the Decision Notice for the Eastside Screens expressly implemented the interim direction until the Eastside EIS is completed, May 20, 1994 Decision Notice (pg. 4).

In February 1995, the Director of the Bureau of Land Management, and the Chief of the Forest Service jointly approved the PACFISH aquatic conservation strategy which amended specific Forest Service land management plans in portions of California, Idaho, Oregon, and Washington states. This strategy is found in the above titled environmental assessment. This aquatic conservation strategy was applied to those federal lands supporting anadromous salmonids not included under the guidance of the Northwest Forest Plan. As stated in the Decision Notice/ Decision Record, for the Forest Service, the PACFISH forest plan and regional guide amendments remain in place until superseded by further plan amendment or revision which was projected to occur in September, 1996.

The purpose of the interim direction is to maintain management options for anadromous fish habitat while the Bureau of Land Management and Forest Service developed long-term management strategies. Another purpose of the interim direction is to take prudent measures to arrest the degradation and begin the restoration of riparian and aquatic ecosystems in watersheds where anadromous fish habitat is present or easily could be reestablished (EA, pp. 6–8).

The responsible officials considered the ability of the selected alternative (alternative 4 of the EA) to meet the stated purpose and needs for the action (EA pp. 6–9); to comply with applicable laws, regulations, executive orders, and policies; and to respond to issues and public comments about the alternative strategies. A critical factor relevant to this decision was the ability of the selected alternative to respond to the issues identified in the EA (pp. 21–22); issues still relevant today.

The PACFISH standards and guidelines (EA Appendix C, Alternative 4) serve to provide adequate environmental safeguards for proposed and ongoing projects and activities that pose an unacceptable risk within riparian habitat conservation areas or that degrade riparian habitat conservation areas. There are no new types of ongoing projects or activities, not already addressed in the PACFISH EA, to consider. With respect to the Forest Service, the selected alternative did not constitute a significant amendment under current planning regulations for the following reasons: (1) Its application is for a limited time; (2) it resulted in only minor modifications to standards and guidelines in existing plans; (3) it did not modify the goals and objectives of existing plans; and (4) it did not alter long-term levels of goods and services projected in existing plans. For the several Bureau of Land Management Districts, Resource Areas or planning areas, the interim PACFISH strategy was found consistent with approved plans and did not require or constitute a plan amendment.

The Bureau of Land Management and Forest Service received a biological opinion, through the Endangered Species Act (ESA), Section 7 consultation process, from the National Marine Fisheries Service dated January 23, 1995, supporting implementation of the PACFISH strategy. The National Marine Fisheries Service, through its PACFISH biological opinion, found that the proposed action was not likely to jeopardize the continued existence of listed Snake River salmon under its jurisdiction nor result in the destruction or adverse modification of critical habitat.

The interim strategy provides direction to ensure land management actions will not lead to jeopardy of listed anadromous fish stocks, or limit options while long-term management strategies are being developed through geographically specific analyses conducted by the ICBEMP.

With respect to those National Forest System lands, covered by PACFISH in California, PACFISH will remain in place until replaced by long-term strategies on affected watersheds of the Lassen and Los Padres National Forests. As indicated in Appendix 1 of the PACFISH EA, this will be accomplished through (1) Minor adjustments of the Los Padres National Forest Plan/ Riparian Conservation Strategy, and (2) direction for managing anadromous fish-producing watersheds of the Lassen National Forest contained in the California Spotted Owl EIS.

With respect to the Bureau of Land Management's lands covered by PACFISH in California, an analysis was made comparing the interim management goals, standards and guidelines, to the Redding Resource Area's management plan. Bureau of Land Management is actively participating with the State, National Marine Fisheries Service and others in developing a Coastal Salmon Initiative, which will include conservation guidelines and protection measures. It is expected the Initiative will be ready for the National Marine Fisheries Service to use in preparing an ESA Section 4(d) rule in early 1997. The Resource Area's management plan goals meet or exceed those established by PACFISH. In the Carmel Creek watershed of the Hollister Resource Area, management of Bureau of Land Management lands is also consistent with PACFISH. The extremely small portion of public land anadromous salmonid streams in that Resource Area are in very good condition and no management changes were necessary. Public comments on the adequacy of current Bureau of Land Management management and long-term management needs for anadromous fisheries were solicited in two public forums held jointly with the Forest Service in 1995. No comments critical of either Resource Area's management direction were received.

With respect to Bureau of Land Management administered lands in Oregon and Washington, an analysis was made comparing the interim Pacfish management goals, standards and guidelines to the four approved Resource Management Plans for the Pacfish area in the Prineville, Vale and Spokane Districts. These plans included the Prineville Direct's Two Rivers and John Day Resource Management Plans, the Vale District's Baker Resource Management Plan and the Spokane District's Spokane Resource Management Plan. Bureau of Land Management staff in these areas are actively participating with the States of Oregon and Washington as well as the National Marine Fisheries Service whenever any new projects are proposed or existing use permits, leases or agreements are revised in areas with known or potential andromous fish habitat. Individual Bureau of Land Management or non-Bureau of Land Management proposed actions have been modified or deferred to allow review and approval by National Marine Fisheries Service under the ESA. The four Resource Management Plans management goals, objectives and management standards or standard operating procedures meet or exceed those established by Pacfish and/or were not inconsistent with Pacfish so that full implementation over the last 18 months did not require any Resource

Management Plan amendments. In many portions of the Pacfish area there are only very small portions of public lands adjacent to Pacfish streams and they are generally in good condition and no management changes were necessary. Public comments on the adequacy of current Bureau of Land Management management and comments on ongoing project environmental analyses indicate Pacfish and related concerns are being adequately addressed and resolved.

With respect to Bureau of Land Management administered lands in Idaho, an analysis was made comparing interim PACFISH management goals, standards and guidelines to the four approved Management Framework Plans and one Resource Management Plan (Resource Management Plan) in effect for the PACFISH areas in the Challis, Lemhi, and Cottonwood Resource Areas of the Upper Columbia-Salmon Clearwater District Management Framework Plan, Ellis-Pahsemeroi Management Framework Plan and Mackay Management Framework Plan; Lemhi Resource Area: Lemhi Resource Management Plan/EIS; and the Cottonwood Resource Area: Chief Joseph Management Framework Plan. Bureau of Land Management staffs in these areas actively participate with the State of Idaho, as well as the National Marine Fisheries Service and US Fish and Wildlife Service whenever any new actions are proposed or ongoing actions are revised in areas with designated critical salmon habitat. All Bureau of Land Management or applicant-proposed actions are reviewed for PACFISH compliance and either found to be in compliance or modified, mitigated or deferred. All actions carried forward that are not in compliance must be considered may effect for listed salmon and/or their designated critical habitats. These actions are evaluated by a team of Bureau of Land Management, National Marine Fisheries Service, and Fish and Wildlife Service biologists, and if appropriate, consulted with National Marine Fisheries Service under section 7 of the ESA. Existing Land Use Plan management goals, objectives and management actions comply with those established by the PACFISH or were consistent with PACFISH over the interim period. Public comments on the adequacy of interim period Bureau of Land Management management and comments on ongoing environmental analysis indicate the PACFISH and related concerns are being adequately addressed and resolved.

Public comments on the adequacy of interim period Bureau of Land Management and comments on ongoing environmental analysis indicate PACFISH and related concerns are being adequately addressed and resolved. Based upon the data the Bureau of Land Management has at this time, the Bureau of Land Management anticipates that it will make a decision to extend PACFISH, and will notify the public of its decision and its implementation strategy.

Analysis Process

The Forest Service has applied the criteria set out in the implementing regulations for the NEPA from the Federal Code of Federal Regulations (CFR) at 40 CFR 1502.9(c)(1) and the Forest Service Handbook at 1909.15 FSH 18.1 for determining the need to provide additional documentation of environmental impacts pursuant to NEPA. The question here is whether there are new circumstances or information that are significant or, in other words, would cause a substantial difference in the analysis of environmental effects documented in the EA for the PACFISH. Also considered was whether the interim direction is still adequate to meet the identified resource needs. The long-term continuation of PACFISH, or an aquatic conservation strategy which replaces it, is being considered in the ICBEMP.

In the case of PACFISH, this evaluation was initiated to determine if there have been any significant changed circumstances or significant new information over the past 18 months relevant to the estimation of effects described in the EA. This analysis focuses on the premise that PACFISH interim direction is intended to maintain management options in the near future and not preclude implementation of options which may be considered as part of the ICBEMP and its associated EISs while permitting certain management activities to continue.

For the analysis, the Forest Service addressed four questions (listed below), as well as the information stated in the PACFISH EA for the selected alternative (Alternative 4), and by comparing that information to information gathered over the past 18 months from the implementation of the PACFISH interim direction; this information included: (a) Inter-agency (Forest Service, Bureau of Land Management, National Marine Fisheries Service, Fish and Wildlife Service) PACFISH Field Reviews, (Jan. 1996, Forest Service CRB files); (b) Bureau of Land Management and Forest Service Field implementation reports (April 15, 1996, Forest Service CRB files); and (c) Analysis of ICBEMP science team and economic data.

1. Are the circumstances, information, and/or the assumptions upon which the EA is based, still valid and germane? If not, are the changed circumstances, information, and/or the assumptions sufficiently minor as not to warrant a change in the interim programmatic direction in order to maintain options which may be considered as part of the Interior Columbia Basin Ecosystem Management Project?

Environmental Assessment. The PACFISH strategy was developed in response to new information which documented broad declines in naturally reproducing anadromous fish, and widespread degradation of the habitat upon which these anadromous fish are dependent.

To protect quality anadromous fish habitats, arrest habitat degradation, and begin restoration of anadromous fish habitat, as well as respond to a wide array of new scientific information on the status of various other anadromous fish stocks and the condition of aquatic and riparian habitat, the Bureau of Land Management and Forest Service re-evaluated all management projects and activities in anadromous watersheds not covered by the Northwest Forest Plan. Such action was needed to ensure that management actions implemented before completion of the ICBEMP EISs would not have adverse environmental effects that would result in jeopardizing the continued existence of anadromous fish stocks or otherwise limit the range or number of reasonable alternatives evaluated in the geographically-specific environmental analyses. This interim strategy was designed to bridge the time gap between existing land management plans and the adoption of a long-term strategy.

Response. Information obtained, to date, through the ICBEMP science reports verifies that the circumstances, information, and assumptions documented in the PACFISH EA are still valid and germane. The ICBEMP information also supports the need, on a broad-scale, for the continuation of interim direction to address the serious condition of anadromous fish within the Columbia River Basin. While the ICBEMP broad-scale information is not specific enough for analysis at the local level (i.e. site-specific project or watershed level) it does provide a basis for analysis of the interim PACFISH direction. This information (documents in publication) indicates the continuation of the PACFISH interim direction would continue to meet the original purpose and need of protecting critical habitats and maintaining options

during development of a long-term management strategy. In addition, all field units have completed an evaluation of ongoing activities.

Discussions with the ICBEMP Aquatic Science Team affirmed that PACFISH is still a technically sound fish habitat conservation strategy from which to operate until the ICBEMP decision-making process is concluded.

2. Is the methodology and analytical approach used in the EA still reasonable?

The PACFISH interim direction was developed for short-term use at the site-specific project level. Bureau of Land Management and Forest Service personnel have reviewed the methodology and analytical approaches used in the analysis for the PACFISH EA, and have determined that they are still valid and appropriate. These same methodologies and analytical approaches would be used again if needed.

3. Are the environmental effects which actually occurred essentially the same as those identified in the EA? If there have been unanticipated effects, are the unanticipated effects sufficiently minor as to warrant neither reopening the NEPA process nor changes in the interim programmatic direction?

Environmental Assessment. Environmental consequences were evaluated for the physical, biological, and human environments. Analyses of environmental consequences were based on estimates of the effects of predicted changes in federal actions as a result of implementation.The following rationale, summarized from the nine assumptions used by the PACFISH Interdisciplinary Team, described on pages 37–38 of the EA, was used for determining the effects.

—The mitigation measures may result in the delay or modification of projects and activities. New project decisions will be preceded, as appropriate, by site-specific NEPA analysis.

—The affected environment is the present environment. Analyses in the EA considered trends and changes associated primarily with ongoing and proposed timber harvesting, livestock grazing, and recreation uses during the interim period.

—Environmental effects were based solely on the implementation of direction within the geographic scope of PACFISH. Management direction applied only to lands within anadromous watersheds that are administered by the Bureau of Land Management and the Forest Service.

—The effects of implementing the PACFISH direction were considered only for the interim period. Because recovery processes within riparian and aquatic habitats are gradual, short-term adjustments in management practices would not result in dramatic habitat improvement during the interim period.

—The effect of modifications in management practices were analyzed based on the size, number, and distribution of riparian habitat conservation areas; as well as in the breadth of standards and guidelines, the scope of projects and activities covered, and the degree to which watershed analysis would be conducted.

—Projects and activities within the range of listed anadromous fish, and for which ESA consultation with the National Marine Fisheries Service has been completed were considered to be in compliance with any interim direction alternative.

Modifications resulting from PACFISH were predicted to account for reductions in recreation visitor days, timber harvest, and permitted grazing within certain streamside areas. Where grazing and timber harvest have caused impacts, adoption of alternative 4 would provide improved soil stability, additional stream shading, and continuing supplies of large woody debris to affected streams. Where grazing has contributed to unstable stream banks, loss of vegetative cover and shade, and increased sedimentation, the trend of such habitat degradation would be reversed.

Protection measures prescribed for timber, road management, minerals management, recreation, and grazing related activities, as well as other activities, would be applied throughout the area of the proposed action. Where such measures are applied, risks to riparian and aquatic resources would be reduced. Where site-specific analysis or watershed analysis indicate other protection measures are necessary they would still be designed to achieve riparian management objectives.

The potential cumulative effects of the PACFISH interim direction were limited by the nature of the interim direction itself. No ground-disturbing actions were authorized, funded, or carried-out by the PACFISH decision. The interim programmatic nature of PACFISH does not constitute any irreversible or irretrievable commitment of resources. Such commitment of resources can only be made through long-term permanent amendments to land management plans, or through site-specific project decisions. In the programmatic environmental assessment for PACFISH, the Bureau of Land Management and the Forest Service merely considered the impacts of various interim strategies for protecting anadromous fish habitat. The intended effect of the interim direction was to maintain the environmental status quo while long-term management strategies are being developed.

The standards and guidelines presented in PACFISH were intended to limit or mitigate the effects of human activity on anadromous fish habitat on Bureau of Land Management and Forest Service administered lands. The interim direction is not the sole or final direction for anadromous fish habitat protection for Bureau of Land Management and Forest Service administered lands. Cumulative effects are also being assessed through specific project and activity analysis efforts. At the programmatic level of this interim direction, detailed analysis of specific cumulative effects was not possible. Such analysis would require speculation as to the scope, character, and environmental consequences of future project and activity decisions.

Response. The implementation monitoring summaries from each of the administrative units were received in January of 1996. These summaries identified the following: (1) That approximately 1200 projects were either completed, planned or in the process of being completed; (2) that PACFISH default riparian habitat conservations areas (EA at Appendix C, pp. C–6 and C–7) were applied to over 600 of these projects; (3) that riparian habitat conservations areas were either modified through watershed analysis or site specific analysis on the remaining projects; and (4) that watershed analysis was conducted for less than 10 percent of the projects and effectiveness monitoring was either conducted or planned on approximately 300 projects.

Implementation monitoring to date has not identified management actions that would lead to noncompliance with PACFISH direction. The direct and indirect effects of implementing the PACFISH interim direction have been essentially the same as those described in the PACFISH EA, and therefore, are assumed to continue as previously projected. Projects which could reasonably be deferred or re-designed to avoid or mitigate impacts were treated accordingly.

The programmatic cumulative effects are consistent with, or less than, those estimated in the EA. The cumulative effects of interim PACFISH direction were reviewed and considered in relation to projects, reasonably

foreseeable policies of other agencies, and possible effects of long-term management. The short term nature of PACFISH makes it difficult to determine measurable changes in cumulative effects. However, the cumulative effects of project level implementation of PACFISH standards and guidelines have resulted in benefits to fish habitat, a condition expected to remain with continuation of PACFISH. Activities anticipated during continuation of PACFISH are similar to those which have occurred during implementation and are not expected to have different effects.

The following provides additional analysis based on recent information about environmental consequences.

Watershed Resources. The EA, page 45, states although improvements to watersheds and water resources would be noticeable at a few sites, measurable improvement in habitat condition during the interim period would not likely to substantial because recovery processes are gradual. As discussed above, implementation monitoring of projects shows that there is good compliance with the PACFISH management direction. As stated in the EA, basin-wide effectiveness monitoring has not been conducted for a sufficient time to show marked improvement. Given the long timeframes required for improvement, the projected environmental consequences for the physical environment are not expected to change through the continuation of the PACFISH direction.

Non-Forested Vegetation. The EA projected most effects to be caused by grazing with some localized areas affected by recreation. The EA stated that application of the proposed management direction would improve ecological conditions but for upland areas this might take 5–10 years before it is measurable, although recovery within riparian areas may be faster. Range allotments identified as posing an unacceptable risk have been subjected to PACFISH management direction. Initial implementation monitoring results show that riparian conditions are improving but that it will take more time to show definitive results on a broad scale for PACFISH. The continuation of PACFISH would not change the effects to the range management program from that described in the PACFISH EA.

Forested Vegetation. Forested vegetation changes slowly except when catastrophic fire, insect or disease events cause rapid change. This was discussed on pages 50–51 of the EA. For the preferred alternative, the EA anticipated harvesting would not generally be allowed within the riparian habitat conservation areas except as allowed for in TM–1 standard which provided for salvage after catastrophic events. The EA disclosed that this would result in higher risks for tree mortality but the inherent risk would not change over such a short timeframe.

During the time period since the approval of the PACFISH EA there have been numerous salvage sale projects. While these projects did not require PACFISH standards and guidelines be applied, Forests were directed to apply management prescriptions that would not cause adverse effect on anadromous fish habitat. An interagency review has been conducted, the results of which will be useful for determining effects to the environmental baseline. These projects have been designed and conducted either using the default PACFISH direction or under direction developed with site specific analysis and Section 7 consultation procedures in drainages with listed stocks. As projected, the completed sales did not salvage as much material as might have occurred prior to PACFISH, though the PACFISH interim direction does allow for salvage after appropriate analysis has been completed. The original projection that the inherent risk would not change is still correct and is applicable to the continuation of the PACFISH direction.

Fishery Resources. The EA projected that because alternative 4 would broaden the application of management direction by including new standards and guidelines to all proposed projects and activities, and some ongoing projects and activities within riparian habitat conservation areas or that degrade riparian habitat conservation areas, and because large riparian habitat conservation areas would be established in all key watersheds, increased protection of riparian and aquatic habitat would occur. Although there would be no permanent cessation of activities in riparian habitat conservation areas, some actions would be modified or deferred during the interim period, resulting in a reduction of adverse effects on riparian and aquatic habitats within riparian habitat conservation areas.

The application of the interim management direction has provided the protection anticipated. Effects on fisheries populations and habitat improvement will take a prolonged time of monitoring to show measurable results. This also applies for the continuation of PACFISH.

Threatened, Endangered, and Sensitive Species/Wildlife Resources. Since the signing of the PACFISH EA, steelhead trout populations in the Snake River Basin and the upper Columbia River Basin have been proposed for federal listing under the ESA (61 FR 41541, August 9, 1996). Steelhead trout populations in the middle Columbia River Basin were not included as proposed species, but will be monitored for possible inclusion. This species of anadromous fish is located throughout the PACFISH area. Steelhead trout were addressed by the EA as one of the anadromous fish PACFISH was designed to benefit. The EA projected that effects on threatened, endangered, and sensitive species and wildlife resources from implementing more constraining standards and guidelines would be minor but mostly positive. Results from the inter-agency field reviews and field implementation reports show this to be true. A similar trend is expected for the continuation of PACFISH.

Social. The EA projected that the social effects of the preferred alternative would be relatively small for small isolated communities (EA, page 60). This has been confirmed by the social analysis developed for the ICBEMP effort. The effects on cultural resources, wild and scenic rivers, Indian tribes, and social effects are as predicted by the EA and are projected to be similar for the continuation of PACFISH direction.

Economic. The focus of the economic effects discussion in the EA was to identify the additional or incremental effects that might be expected as a result of interim direction. Because of ESA requirements and the presence of listed anadromous fish stocks, both Bureau of Land Management and Forest Service field units in the Snake River Basin generally were already operating under more stringent management requirements than were called for under current plans. These units had already experienced reductions in many activities and output levels as a result of consultation and other ESA provisions. Estimated effects of implementing alternative 4 were reductions in timber harvesting, livestock grazing, and recreation visitor day use.

In general the economic impacts are more modest than forecasted in 1994. The continuing low prices for timber and beef have resulted in lesser impacts from the PACFISH decision for those industries than stated in the PACFISH EA; the low prices for timber and beef affected the outputs of all forests. For various reasons, timber harvest fell slightly between 1994 and 1995 by an average of 9 percent. The major difference in total impacts is the lack of recreation impacts observed over the past 2 years. The original economic analysis (late 1994 and early 1995)

assumed seasonal or permanent closures of both developed and dispersed sites in areas affected by the PACFISH strategy. Such closures did not occur, although some National Forests closed roads and implicitly limited access. Another difference is that some of the projected range impacts have not occurred. The original analysis assumed that as allotment management plans were completed, there would be a drop in the number of animal unit months. The completion of allotment management plans has been a slow process with few changes to numbers of animal unit months, although there have been changes to season of use and grazing patterns. The costs of various programs have increased for the Forest Service. A sample from the majority of National Forests involved in PACFISH suggest cost increases on the order of 12, 8, and 4 percent for administration of the timber, range, and recreation programs respectively.

The ICBEMP information indicates that the assumptions used for the economic effects determinations in the PACFISH EA are still correct. The estimates for effects for cut and sold timber volumes, and the estimated effects to the livestock grazing program are within those projected in the PACFISH EA. These effects would remain the same under the continuation of PACFISH.

4. Is the range of alternatives for interim direction still reasonable for meeting the purpose and need (i.e., changes in information, circumstances, and or assumptions do not lead to issues that would warrant development of an alternative not already considered in the EA but which would meet the purpose and need)?

Although the range of alternatives in the ICBEMP DEISs are greater and more diverse than the PACFISH EA alternative range, the former documents are intended to consider long-term strategies which could involve major changes in federal land use allocations and management direction. In contrast, the PACFISH EA and associated decisions were intended to consider a more limited range of interim actions that could be readily implemented while preserving future management options. The long-term management strategy would clearly consider actions which would be major federal actions (as defined by the CEQ guidelines for implementing NEPA), while the PACFISH EA provides more modest interim actions designed to preserve options with minimal effects on the other federal land uses and resource allocations during the time needed to complete the ICBEMP decision-making process. The range of PACFISH EA alternatives are still reasonable and appropriate for continuing interim policies, standards, and guidelines.

Endangered Species Act Consultation

On August 29, 1996, the Bureau of Land Management and the Forest Service re-initiated consultation, under section 7 of the Endangered Species Act, with the National Marine Fisheries Service per the terms of the January 23, 1995, Biological Opinion for PACFISH. The Biological Opinion states at page 33, consultation shall be re-initiated in the event that consultation on the geographically-specific EISs in eastern Oregon, Washington, and Idaho is not completed by 18 months from the effective date of the [record of decision] for PACFISH.

Conclusion

The Forest Service reviewed the interagency information from the area covered by PACFISH, and information from field reviews indicating that it is still a technically sound fish habitat conservation strategy from which to operate until the ICBEMP decision-making process is completed. Through this review the Forest Service concluded that: (1) the data and/or assumptions upon which the EA was based are still valid and germane; (2) the methodology and analytical approach used in the EA are still reasonable; (3) the effects experienced are within those identified in the EA, and reasonably foreseeable future effects are consistent with those estimated in the EA, and are not significant; and (4) the range of alternatives in the EA is still reasonable.

The available evidence indicates that the direction provided by PACFISH is sufficient to provide resource protection until long-term direction is in place, that the analysis contained in the EA is still valid, and that the factors leading to a finding of no significant impact are still correct and appropriate. Consequently, the PACFISH interim direction will continue until implementation of the ICBEMP decisions.

NEPA Findings. Under the Forest Service Handbook, 1909.15 at 18.1, the Forest Service may conduct interdisciplinary reviews and consideration of new information in the context of the overall program or project to determine whether or not the new information warrants reopening the NEPA process. The analysis, documented above, fulfills that review and consideration. The analysis indicates there is not significant new information or changed conditions that would warrant reopening the NEPA decision-making process for PACFISH. The range of alternatives, estimation of effects, and the finding of no significant impact are still valid. The science used to develop the PACFISH strategy is still valid.

PACFISH & NFMA Significance. The PACFISH Decision Notice contains a finding that the PACFISH amendments were not NFMA significant amendments (36 CFR 219.(10)(f); Decision Notice, pp 8–11). The Decision Notice reviewed the significance factors and concluded:

Timing: Because PACFISH will be in place only until the current analysis of a longer-term strategy is completed they do not constitute significant amendments of the Regional Guides and forest plans.

Location and Size: The area in the planning unit affected by the interim standards and guidelines is not so large in size as to mandate a significant amendment.

Goals, Objectives, Outputs: PACFISH does not significantly alter the long-term relationships between levels of goods and services projected by the forest plans. Any short term temporary reductions in outputs do not foreclose opportunities to achieve such outputs in later years.

Management Proscriptions: The desired future conditions and long-term levels of goods and services projected in current plans would not be substantially changed by the interim strategy.

Other Factors: Other factors include the ability of the Forest Service to adapt to changing conditions and protect anadromous salmonid species for a short period of time until a longer-term strategy can be analyzed and adopted.

Furthermore, the situation with regard to the NFMA significance of the PACFISH amendments remains largely the same. *First,* the original analysis contemplated that PACFISH would remain in place until the EISs were completed to provide protection for anadromous salmonid species. The only difference is that the interim direction is being continued while the Bureau of Land Management and Forest Service complete the EISs for the long-term strategy and consider and respond to public comments on the draft proposals. *Second,* the area potentially impacted remains the same. *Third,* the potential impact of the amendments upon levels of goods and services and desired future conditions projected in the forest plans also remains unchanged. The original analysis contemplated that short term changes from estimated levels of possible outputs of goods and services would not foreclose opportunities to achieve such outputs in later years. This is still true. Likewise, the desired future

conditions projected in the forest plans would not be substantially changed by continuation of PACFISH until the EISs area completed. *Finally,* we note that the certain salmon and other ESA listed species remain imperiled. PACFISH was undertaken to ensure the Bureau of Land and Forest Service would do no harm to the salmon while continuing to manage the national forests for multiple use resources. This objective remains unchanged. Thus, the situation with regard to the NFMA significance remains largely the same as it was at the time of the original analysis and decision.

PACFISH amended Regional Guides and forest plans to provide interim protection for anadromous salmonid species pending the completion of a EISs for longer-term direction. As an interim measure PACFISH will continue to ensure that the Bureau of Land Management and Forest Service do not foreclose multiple use management options while the longer-term strategy is being developed. The significance of these measures to sustain multiple use management were thoroughly analyzed in the original PACFISH EA and Decision Notice/Decision Record. The continuation of PACFISH as direction intended to remain in place pending completion of the longer-term strategy does not alter the conclusions reached in the original analysis of NFMA significance.

Dated: September 4, 1996.

Robert W. Williams,

Regional Forester.

Dated: September 5, 1996.

Elaine Y. Zielinski,

State Director.

[FR Doc. 96–23178 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–11–M; 4310–84–M

Rocky Mountain Region; Environmental Impact Statement for Sheep Flats Diversity Unit Timber Sales, Grand Mesa, Uncompahgre and Gunnison National Forests, Mesa County, Colorado

AGENCY: Forest Service, USDA.

ACTION: Revison of a Notice of Intent to prepare an environmental impact statement.

RESPONSIBLE OFFICIAL: The responsible official for this environmental impact statement is Mr. Robert Storch, Forest Supervisor of the Grand Mesa, Uncompahgre, and Gunnison National Forests, 2250 Highway 50, Delta, Colorado 81416.

SUMMARY: The Forest Service will prepare an environmental impact statement about four (4) proposed timber sales: Valley View, Sheep Flats, Grove Creek, and Leon. These sales are located in the Sheep Flats Diversity Unit on the Grand Mesa National Forest, Collbran Ranger District.

DATES: Publication of Draft EIS: November 1996; Final EIS: August 1997.

ADDRESSES: Send written comments to Pam Bode, Team Leader, USDA Forest Service, 216 North Colorado Street, Gunnison, CO, 81230. Contact Pam Bode also for further information. Phone: 970–641–0471. FAX: 970–641–1928.

SUPPLEMENTARY INFORMATION: The Forest Supervisor will use this Environmental Impact Statement to decide how to manage the timber resource within the Sheep Flats Diversity Unit. The Forest Service is proposing to harvest four timber sales on this National Forest system land. Even-aged and uneven-aged silvicultural systems are being planned in Engelmann spruce, sub-alpine fir, and aspen stands. These sales are scheduled to be offered within a five to ten year period after this analysis.

Initial scoping of interested parties identified three preliminary issues. These are: (1) Constructing roads and harvesting timber within an area that was identified as the Salt Creek Roadless Area during the 1979 RARE II process, (2) harvesting old growth timber, and (3) cumulative impacts on ecosystems from logging operations in and around the sale areas.

Five alternatives will be studied in this analysis. Alternative 1 is no action. Alternatives 2 and 4 harvest suitable timber but do not enter the Salt Creek Roadless Area. Alternative 2 creates a balance of structural stages and accommodates wildlife travel corridors. Alternative 4 maximizes the amount of wood fiber removed. Alternatives 3 and 5 harvest suitable timber throughout the Diversity Unit, including within the Salt Creek Roadless Area. Alternative 3 creates a balance of structural stages and accommodates wildlife travel corridors. Alternative 5 maximizes the amount of wood fiber removed. The proposed action is Alternative 3.

Alternative	Acres planned for harvest		Volume in board feet	Number of sales
	Total acres	RARE II acres		
1	0	0	0	0
2	707	0	2,456,000	1
3	2,666	1959	11,505,000	4
4	914	0	3,387,000	1
5	3,647	2733	15,630,000	4

This notice is a renotification of the Forest Service's intent to study these timber sales within the Sheep Flats Diversity Unit. A previous notice of intent was published in the Federal Register Volume 57, #31, on 2/14/92. A previous notice of availability of the draft EIS was published in Volume 59, #5, on 1/7/94. This notice provides new dates for completions of the revised draft and the final Environmental Impact Statements. The alternatives that are being studied have changed substantially from the previous document.

Since this is a renotification, news releases have already been issued and a public meeting has already taken place in March, 1992. Field tours to the proposed area have already been conducted with concerned parties. Additional news releases have been issued explaining the new timeline for this analysis. Parties that expressed interest previously have been informed individually by mail that this analysis is continuing. No additional public meetings are planned, however, the Forest Service is willing to consider any party's request for additional field tours or public meetings.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the

environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact stage but that are not raised until after completion of the final environmental statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1980) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statements. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: August 8, 1996.

Robert L. Storch,

Forest Supervisor.

[FR Doc. 96–23207 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–11–M

Eastern Washington Cascades Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades PIEC Advisory Committee will meet on September 26, 1996 in the Wenatchee National Forest Headquarters office, Wenatchee Conference Room, 215 Melody Lane, Wenatchee, Washington. The meeting will begin at 9:00 a.m. and continue until 4:00 p.m. Agenda items to be covered will include agency updates, Northwest Forest Plan implementation, and management of streamside riparian areas under the Northwest Forest Plan. All Eastern Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington. 98807, 509–662–4335.

Dated: September 4, 1996.

Paul Hart,

Designated Federal Official, Wenatchee National Forest.

[FR Doc. 96–23103 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–11–P

Boundary Extension, Ouachita National Forest, Arkansas

AGENCY: Forest Service, USDA.

ACTION: Notice of boundary extension.

SUMMARY: The Secretary of Agriculture has extended the boundary of the Ouachita National Forest to include 425.54 acres, more or less, in Le Flore County, Oklahoma, which were recently acquired through exchange. A copy of the Secretary's establishment document which includes the legal description of the lands within the extension appears at the end of this notice.

DATES: The effective date of this boundary extension was August 22, 1996.

ADDRESSES: A copy of the map showing the boundary extension is on file and available for public inspection in the Office of the Director of Lands, Auditor's Building, 201 14th Street, SW, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Myers, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090, telephone: (202) 205–1248.

SUPPLEMENTARY INFORMATION: Pursuant to the authority under Section 20(d), Winding Stair Mountain National Recreation and Wilderness Act of October 18, 1988 (16 U.S.C. 460), the Secretary of Agriculture has extended the boundary of the Ouachita National Forest. The Act provided authority to the Secretary of Agriculture to acquire by purchase, exchange, donation, or otherwise, any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. This Act also provided that the Secretary would extend the boundaries of the Ouachita National Forest to include such lands.

Dated: September 3, 1996.

Larry O. Gadt,

Acting Associate Deputy Chief.

Ouachita National Forest boundary Extension

Pursuant to the Secretary of Agriculture's authority under Section 20(d), P.L. 100–499 (102 Stat. 2491) the Ouachita National Forest boundary is hereby extended to include the following lands.

Le Flore County, Oklahoma, Indian Meridian

T.4 N., R. 27 E.
Section 5: NW¼SW¼, S½SW¼
Section 7: The East Twenty Acres and the Southwest Eight and 49/100 acres of Lot One, Lot Two, E½NW¼, NE¼

The areas described an aggregate 425.54 acres more or less.

As provided by P.L. 100–499, the lands described shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911 (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the National Forest System.

Dated: August 22, 1996.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 96–23225 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–11–M

Addition of Lands to the White Mountain Purchase Unit

AGENCY: Forest Service, USDA.

ACTION: Notice of Addition of Lands to White Mountain Purchase Unit.

SUMMARY: On March 17, 1996, the Deputy Under Secretary, Natural Resources and Environment added lands to the White Mountain Purchase Unit. These additional lands comprise 455.3 acres, more or less, within Coos County, New Hampshire. A copy of the establishment document which includes the legal description of the lands within the addition appears at the end of this notice.

EFFECTIVE DATE: The effective date of this addition was March 17, 1996.

ADDRESSES: A copy of the map showing the addition is on file and available for public inspection in the Office of the Director of Lands, Forest Service, Auditor's Building, 201 14th Street, SW, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Myers, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, telephone: (202) 205–1248.

Dated: September 5, 1996.

Janice McDougle,

Associate Deputy Chief.

Proposed Addition to White Mountain Purchase Unit; Crawford's Purchase, Coos County, New Hampshire

Pursuant to the Secretary of Agriculture's authority under Section 17, P.L. 94–588 (90 Stat. 2949), the lands as described hereto are being added to the White Mountain Purchase Unit:

All that tract of land located in Crawford's Purchase, Coos County, New Hampshire, and being more particularly described as follows:

Beginnning at Corner 26 of U.S. Tract #981, which is in the road centerline of the Mount Washington Turnpike (Also known as the Base Station Road) and on the Carroll/Crawford's Purchase townline; Thence with said Tract #981 the following 3 courses:

1. Northeasterly and southeasterly, with the centerline of the Mt. Washington Turnpike, approximately 20,259 feet (3.8 miles) to Corner 25 of said Tract 981;

2. Northwesterly, 539.98 feet to Corner 24 of said Tract #981 on the southerly sideline of Stickney Road;

3. Northwesterly, along the southerly side of the Stickney road, approximately 6,770 feet to Corner 23 of said Tract #981, which is common to lands of G.S. Phoenix L.L.C.; Thence with said lands of G.S. Phoenix L.L.C.; the following 12 courses:

1. S 73°49′15″ W, 454.75 feet to the Carroll/Crawford's Purchase town line;

2. With the Carroll/Crawford's Purchase town line, N 27°01′05″ W, 222.86 feet to a point;

3. N 23°13′09″ E, 106.05 feet;

4. N 12°11′14″ W, 654.24 feet;

5. N 77°48′46″ E, 153.55 feet;

6. S 65°43′07″ E, 299.56 feet;

7. N 30°27′05″ E, 1038.71 feet;

8. N 60°24′30″ W, 712.42 feet;

9. S 36°22′51″ W, 619.45 feet;

10. N 46°55′17″ W, 188.05 feet;

11. S 35°26′45″ W, 267.62 feet;

12. S 70°57′07″ W, 222.69 feet to the Carroll/Crawford's Purchase town line;

Thence N 21°43′46″ W, 897.30 feet to the southerly side of the Mount Washington Turnpike;

Thence northwesterly, 97.2 feet to the Point of Beginning on the Carroll/Crawford's Purchase townline.

Containing 455.3 acres, more or less. These lands are well suited for watershed protection and meet the requirements of the Act of March 1, 1911, as amended.

Dated: March 17, 1996.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and the Environment.

[FR Doc. 96–23226 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–11–M

Rural Business-Cooperative Service

Notice of Request for Clearance of Information Collection Within Existing Regulation

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department's intention to reinstate information collection for the Rural Economic Development Loan and Grant Program.

DATES: Written comments must be received on or before November 12, 1996.

FOR FURTHER INFORMATION CONTACT: Mark Wyatt, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 720–0410.

SUPPLEMENTARY INFORMATION:

Title: Rural Economic Development Loan and Grant Program.

OMB Number: 0572–0086.

Expiration Date of Approval: December 31, 1994.

Type of Request: Reinstate information collection for the Rural Economic Development Loan and Grant Program.

Abstract: The Rural Economic Development Loan and Grant Program provides zero interest loans and grants to Rural Utilities Service (RUS) borrowers for the purpose of promoting rural economic development and job creation projects. The loans and grants under this program may be provided to approximately 1,700 electric and telephone utilities across the country that have borrowed funds from RUS. Under this program, the RUS borrowers may receive the loan funds and pass them on to businesses or other organizations. The RUS borrower is responsible for the loan even if it does not receive payments from the ultimate recipient. Grants may be provided to establish revolving loan funds.

Rural Business-Cooperative Service needs to receive the information contained in this collection of information to select the projects it believes will provide the most long term economic benefit to rural areas. The selection process is competitive and the Agency has consistently received more applications than it could fund. The Agency also needs to make sure the funds are used for the intended purpose and, in the case of the loan, that the funds will be repaid. The Agency must determine that loans made from revolving loan funds established with grants were used for eligible purposes. RUS borrowers that wish to apply for zero interest loans and grants must submit an application package. RUS borrowers apply at their own discretion; no RUS borrower is required to apply under this program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.4 hours per response.

Respondents: Almost all RUS electric and telecommunications borrowers are eligible for funds under this program. However, RUS borrowers apply at their own discretion. No RUS borrower is required to apply under this program.

Estimated number of Respondents: 180.

Estimated Number of Responses per Respondent: 21.

Estimated Total Annual Burden on Respondents: 7,240 hours.

Copies of this information collection can be obtained from Sam Spencer, Rural Business Team, Information Collection Coordinator, at (202) 720–9588.

Comments: Comments are invited on: (a) 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; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (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 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. Comments may be sent to Sam Spencer, Rural Business Team, Information Collection Coordinator, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, Stop 0743, Washington, D.C. 20250. All responses to this will be summarized and included in the request for OMB

approval. All comments will become a matter of public record.

Dated: August 30, 1996.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 96–23212 Filed 9–10–96; 8:45 am]

BILLING CODE 3410–32–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the U.S. Commission will hold a meeting on September 26, 1996, from 5:30 p.m. to 7:30 p.m. at the Camp Dodge #1, Starc Armory, 6100 N.W. 78th Avenue, Johnston, Iowa 50131. The purpose of the meeting is to provide information to persons on ''How to file civil rights complaints with various Federal, State, and local civil rights agencies.'' Through interactive video the meeting will be telecast to 13 additional sites in the State (see sites below). Persons interested in learning about filing civil rights complaints should go to the site nearest to their location. There persons will be able to view the telecast and through interactive video will be able to ask questions and interact with the presenters.

Boone National Guard Armory, 700 Snedden Drive, Boone, IA 50036–5411

Burlington High School, 1421 Terrace Drive, Burlington, IA 52601

Cedar Rapids National Guard Armory, 10400 18th Street SW, Cedar Rapids, IA 52404

Charles City National Guard Armory, 2003 Clark Street, Charles City, IA 50616–4002

Council Bluffs National Guard Armory, 2415 East Kanesville Boulevard, Council Bluffs, IA 51503

Dubuque National Guard Armory, R.R. #6, 195 Radford Road, Dubuque, IA 52002–9319

Marshalltown National Guard Armory, 9th and Summit, Marshalltown, IA 50158

Storm Lake National Guard Armory, 1601 Park Street, Storm Lake, IA 50588–2662

University of Iowa Hospitals & Clinics, 8786 JPP, 8th Floor, 200 Hawkins Drive, Iowa City, IA 52242–1009

Waterloo National Guard Armory, 3306 Airport Boulevard, Waterloo, IA 50703

Webster City High School, 1001 Lynx Avenue, Room 19, Webster City, IA 50595

Western Hills Area Education Agency 12, 1520 Morningside Avenue, Room 209A, Sioux City, IA 51106

Mount Joy AASF, 9650 Harrison Street, Davenport, IA 52804.

Persons desiring additional information should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 30, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–23208 Filed 9–10–96; 8:45 am]

BILLING CODE 6335–01–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: 1997 Economic Census Refile Classification Survey.

Form Number(s): NC–9922.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 20,750 hours.

Number of Respondents: 250,000.

Avg Hours Per Response: 5 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. The 1987 Standard Industrial Classification (SIC) system, currently used to classify businesses by kind-of-business, is being replaced by the new 1997 North American Industry Classification System (NAICS), an international agreement between Canada, Mexico and the United States. The Census Bureau is implementing the new NAICS for the 1997 Economic Censuses. The change to NAICS will require contacting businesses of sectors most affected by the change to collect NAICS based classification information. The Census Bureau will use this survey to collect classification information from the non-goods producing sectors which include Retail Trade; Wholesale Trade; Transportation, Communication, Electric, and Sanitary Services; and other business services. The Census Bureau will use the classification information collected from businesses to update the Standard Statistical Establishment List (SSEL), the basic sampling frame for many of our current surveys and the 1997 economic census mailing lists. The information collection will ensure respondents receive the correct census form. The collection of this new NAICS information will greatly reduce processing costs and ease reporting burden for the 1997 Economic Censuses data collection and will benefit our current business surveys when they convert to the NAICS classification system, currently planned for FY 2000.

Affected Public: Businesses or other for-profit, Individuals or households, Not-for-profit institutions, State, local or tribal government.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 131 and 224.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, 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: September 5, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–23080 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket 67–96]

Foreign-Trade Zone 29—Louisville, KY; Application for Subzone Status: Ascent Power Technology Corporation, Inc., Facilities (Electric Power Supplies/Electronic Fluorescent Lighting Ballasts) Campton, Kentucky

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Louisville and Jefferson County Riverport Authority, grantee of FTZ 29, requesting special-purpose subzone status for the manufacturing facilities (electric power supplies and electronic fluorescent lighting ballasts) of Ascent Power Technology Corporation, Inc. (APTCI), located in Campton, Kentucky. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 27, 1996.

The proposed subzone would consist of APTCI's manufacturing/warehousing facilities located on four parcels in the Campton (Wolfe County) area, some 50 miles southeast of Lexington, Kentucky: Parcel 1 (32,000 sq.ft. on 4 acres)—manufacturing facility, 760 South Kentucky Route 15, one-half mile south of downtown Campton; Parcel 2 (7,000 sq.ft.)—administrative facility, 780 South Kentucky Route 15, adjacent to Parcel 1; Parcel 3 (8,000 sq.ft.)—warehouse, 85 Elkins Road, adjacent to Kentucky Route 15; and Parcel 4 (5,800 sq.ft.)—warehouse, 430 South Washington Street (at G Road) in Campton. The facilities (300 employees) are used to produce electric switch mode power supplies (HTS# 8471.80.40, 8504.40.60) and electronic fluorescent lighting ballasts (HTS# 8504.10) for export and the domestic market. The power supplies are sold to manufacturers of electronic office products (e.g., computer printers, typewriters) and medical, aerospace, military, and industrial equipment. The ballasts are sold to fluorescent lighting equipment manufacturers. The production process involves assembly, testing, and warehousing. Components purchased from abroad (about 90% of total, by value) include: copper wire, capacitors, resistors, diodes, semiconductors, printed and integrated circuits, switches, fuses, insulators, voltage limiters, surge suppressors, transformers, rectifiers, inductors, thermostats, flux, solder bars, other articles of iron and steel (HTS# 7326) and labels (duty rate range: free—14.3%, 7¢/kg).

Zone procedures would exempt APTCI from Customs duty payments on the foreign components used in the export production. On its domestic sales, the company would be able to choose the duty rates that apply to finished power supplies (duty free) and electronic lighting ballasts (3.0%) for the foreign inputs noted above. The application indicates that subzone status would help improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 12, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 25, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Export Assistance Center, Room 634B, 601 W. Broadway, Louisville, KY 40202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230–0002.

Dated: August 28, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–23112 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 66–96]

Foreign-Trade Zone 61—San Juan, PR; Application for Subzone Status: PepsiCo of Puerto Rico, Inc. (Soft Drink Concentrates) Cidra, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Commercial and Farm Credit and Development Corporation for Puerto Rico, grantee of FTZ 61, requesting special-purpose subzone status for the soft drink flavoring concentrate manufacturing plant of PepsiCo of Puerto Rico, Inc. (PPR) (subsidiary of PepsiCo, Inc.), located in Cidra, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 22, 1996.

The PPR plant (35,000 sq.ft.) is located at Streets A and B (Lots 9 and 10) within the Cidra Industrial Area of the City of Cidra, about 25 miles south of San Juan. The facility (160 employees) is used to produce PepsiCo, Inc., branded soft drink flavoring concentrates for products such as ''Pepsi'', ''Diet Pepsi'', and ''Mountain Dew'', that are sold to licensed bottling companies in the U.S. and abroad. The application indicates that ingredients purchased from foreign sources include: sodium benzoate, sodium citrate dihydrate, citric acid, erythoribic acid, caffeine, gum arabic, FD&C yellow #5, citrus pectin, aspartame, liquid invert sugar, orange juice solids, and potassium citrate (duty rate range: free-18.6%; 8.4¢/kg).

Zone procedures would exempt PPR from Customs duty payments on the foreign ingredients used in production for export. On domestic sales, PPR would be able to choose the duty rate that applies to finished soft drink concentrates (10%) for the foreign ingredients noted above. The ethanol used in the production process is domestically-sourced, and FTZ procedures would provide an alternative means of exempting the ethanol from federal excise taxes based on its use in the manufacture of soft drink concentrates. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 12, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 25, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Export Assistance Center, Federal Building, Room G–55, Chardon Avenue, Hato Rey, PR 00918

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: August 28, 1996.
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 96–23111 Filed 9–10–96; 8:45 am]
BILLING CODE 3510–DS–P

International Trade Administration

[A–421–803]

Amended Final Determination Pursuant to CIT Decision: Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has prepared this amended final determination pursuant to the Order from the Court of International Trade (CIT), 93–09–000616.

EFFECTIVE DATE: August 14, 1996.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger at (202) 482–4136, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: On June 14, 1996, the United States Court of International Trade (CIT) affirmed the Department of Commerce's (the Department) redetermination on remand of the *Final Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products and Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands* (58 FR 37199, July 9, 1993), as amended by the *Antidumping Duty Order* (58 FR 44172, August 19, 1993). *National Steel Corp. v. United States* (''*National Steel*''), Slip. Op. 96–97, (CIT, June 14, 1996).

In affirming the Department's remand, the CIT accepted the Department's revised methodology for selecting the highest non-aberrant margin to be applied to certain unreported exporter's sales price (ESP) sales of respondent Hoogovens Groep B.V. The CIT also accepted the Department's revised value-added tax adjustment methodology, which is in accordance with *Federal-Mogul Corp. v. United States,* 63 F.3d 1572, 1580 (Fed. Cir. 1995).

Results of Amended Final

The recalculated weighted-average dumping margins are:

Company	Margin percentage
Hoogovens Groep, B.V.	19.32
All Others	19.32

This amended final determination is in accordance with *National Steel,* Slip Op. 96–97.

Dated: August 27, 1996.
Robert S. LaRussa,
Acting Assistant Secretary for Import Administration.
[FR Doc. 96–23107 Filed 9–10–96; 8:45 am]
BILLING CODE 3510–DS–P

[A–588–047]

Polychloroprene Rubber From Japan; Preliminary Results and Partial Termination of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results and Partial Termination of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce is partially terminating the administrative review of the antidumping finding on polychloroprene rubber from Japan with respect to Denki Kaguku Kogyo K.K. (Denki), Tosoh Corporation (Tosoh), and Mitsui Bussan K.K. (Mitsui Bussan) This review covers shipments of this merchandise to the United States during the period December 1, 1994, through November 30, 1995, for five other manufacturers/exporters.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr. or Thomas F. Futtner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482–0651 or 482–3814.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1973, the Department of the Treasury published in the Federal Register (38 FR 35393) the antidumping finding on polychloroprene rubber (rubber) from Japan. On December 6, 1995, the Department of Commerce (the Department) published a notice of ''Opportunity to Request Administrative Review'' (60 FR 62071). On January 11, 1996, the petitioner, E. I. Du Pont de Nemours & Company, Inc. (Du Pont), requested that we conduct an administrative review for the period December 1, 1994, through November 30, 1995, covering eight producers and/or exporters: Denki, Denki/Hoei Sangyo Co., Ltd. (Denki/Hoei Sangyo), Mitsui Bussan, Showa Neoprene K.K. (Showa), Showa/ Hoei Sangyo Co., Ltd. (Showa/ Hoei Sangyo), Suzugo Corporation (Suzugo), Tosoh (formerly Toyo Soda), and Tosoh/Hoei Sangyo Co., Ltd. (Tosoh/Hoei Sangyo).

We published a notice of initiation of the antidumping administrative review on these companies on February 1, 1996 (61 FR 3670).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Scope of the Review

Imports covered by the review are shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00. HTS item numbers are provided for convenience and for Customs purposes. The written descriptions remain dispositive.

Preliminary Results and Partial Termination of Administrative Review

Denki, Tosoh, and Mitsui Bussan responded that they had no shipments of the subject merchandise during the period of review (POR), and we confirmed this with the United States Customs Service. Therefore, in accordance with our practice, we are treating these firms as non-shippers for purposes of this review, and are terminating this review with respect to these companies. The cash deposit rates for these firms will continue to be the rates established in the most recently completed final review.

We were unable to locate the remaining companies, Showa, Suzugo, Denki/Hoei Sangyo, Showa/Hoei Sangyo, and Tosoh/Hoei Sangyo in spite of requests for assistance from various sources including the American Embassy in Tokyo, the Japanese Embassy in Washington, D.C., and the U.S. Customs Service. Therefore, we were unable to conduct administrative

reviews for these firms, and we will instruct the U.S. Customs Service to continue to assess any entries by these firms at the rate determined by the last completed administrative review on November 26, 1984 (49 FR 46454) (*See Certain Fresh Cut Flowers from Colombia; Preliminary Results of Antidumping Duty Administrative Review, Partial Termination of Administrative Reviews, and Notice of Intent to Revoke Order (In Part)* (''*Flowers from Colombia*''), 60 FR 30271 (June 8, 1995)).

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for all firms covered in this review will be those rates established in the last completed final results of review; (2) the cash deposit rate for subject merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or in the original less-than-fair-value (LTFV) investigation, will be based upon the most recently published rate in a final result or determination for which the manufacturer or exporter received a company-specific rate; and (3) the cash deposit rate for subject merchandise exported by an exporter not covered in this review, a prior review, or the original investigation, but where the manufacturer of the merchandise has been covered by this or a prior final results or determination, will be based upon the most recently published company-specific rate for that manufacturer.

On May 25, 1993, the Court of International Trade, in *Floral Trade Council v. United States,* Slip Op. 93–79, and Federal-Mogul Corporation and the Torrington Company v. United States, Slip Op. 93–83, decided that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to apply the original ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews. In proceedings governed by antidumping findings, unless we are able to ascertain the ''all others'' rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the ''new shipper'' rate established in the first final results of administrative review published by the Department (or that rate amended for correction of clerical errors or as a result of litigation) as the ''all others'' rate for the purpose of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping finding and we are unable to ascertain the ''all others'' rate from the Treasury LTFV investigation, the ''all others'' rate for purposes of this review will be 55.00 percent, a rate established in the final results of administrative review published by the Department on April 6, 1982 (47 FR 14746).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including its results of its analysis of issues raised in any such written comments.

This notice serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 3, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–23109 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–401]

Red Raspberries From Canada; Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of New Shipper Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper administrative review of the antidumping duty order on red raspberries from Canada, which has a June anniversary date. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 353.22(h)(1995), we are initiating this new shipper administrative review.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT:

Michael J. Heaney or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department received a timely request, in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 353.22(h) of the Department's Interim Regulations (60 FR 25130, 25134 (May 11, 1995)) (Interim Regulations), for a new shipper review of the antidumping duty order on red raspberries from Canada, which has a June anniversary date. Antidumping Duty Order; Red Raspberries from Canada, 50 FR 26019, (June 24, 1985).

Initiation of Review

In accordance with section 751(a)(2)(B)(iii) of the Act, and 19 CFR 353.22(h)(6), we are initiating a new shipper review of the antidumping duty order on red raspberries from Canada. We will issue the preliminary results of this review not later than 180 days from the date of publication of this notice and the final results within 90 days after issuance of the preliminary results, unless these time limits are extended in accordance with section 751(a)(2)(B)(iv) of the Act.

Antidumping duty proceeding	Period to be reviewed	Company
Canada: Red Raspberries, A–122–401	06/01/95–05/31/96	Berryhill Foods, Inc.

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies, in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 353.22(h)(4)(1995).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with Section 353.34(b) of the Department's regulations (19 CFR 353.34(b) (1995)).

This initiation and this notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and section 353.22(h) of the Interim Regulations.

Dated: September 5, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 96–23232 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–601]

Certain Stainless Steel Cooking Ware From the Republic of Korea; Termination of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) is terminating the administrative reviews of the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea covering the following periods: January 1, 1991 through December 31, 1991; January 1, 1992 through December 31, 1992; January 1, 1993 through December 31, 1993; and January 1, 1994 through December 31, 1994.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Amy S. Wei or Zev Primor, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Applicable Regulations

Unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On January 31, 1992, Farberware, Inc. (petitioner) requested that the Department conduct an administrative review of the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea, covering the period January 1, 1991 through December 31, 1991. We initiated the 1991 review on February 24, 1992 (57 FR 6314). On January 27, 1993, petitioner requested that the Department conduct an administrative review of the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea, covering the period January 1, 1992 through December 31, 1992. We initiated the 1992 review on March 8, 1993 (58 FR 12931). On January 31, 1994, petitioner requested that the Department conduct an administrative review of the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea, covering the period January 1, 1993 through December 31, 1993. We initiated the 1993 review on February 17, 1994 (59 FR 7979). On January 30, 1995, petitioner requested that the Department conduct an administrative review of the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea, covering the period January 1, 1994 through December 31, 1994.

We initiated the 1994 review on February 15, 1995 (60 FR 8629). On August 20, 1996, Syratech Corporation (Syratech), by letter, apprised the Department that it had acquired Farberware's stainless steel cooking ware production machinery and ''certain other assets,'' including intellectual property. Syratech thereafter licensed the Farberware name to another firm for use in conjunction with the production, marketing, and sale of stainless steel cooking ware. On August 26, 1996, Syratech submitted a letter seeking withdrawal of the requests for reviews.

Section 353.22(a)(5) of the Department's regulations provides that the Department may permit a party that requests a review to withdraw its request not later than 90 days after the date of publication of the notice of initiation of the review. This regulation also permits the Department to extend the time limit for withdrawal of a request for review if it is reasonable to do so.

In light of the totality of circumstances, the Department has determined Syratech to be the successor in interest to Farberware for the purpose of these reviews. *See* Decision Memorandum from Holly A. Kuga to Jeffrey P. Bialos, August 28, 1996. Because Syratech, as the successor in interest to Farberware, the party requesting the reviews, has withdrawn its requests for reviews and has requested that the Department terminate the pending reviews, the Department has determined to terminate these reviews. While the withdrawal request was made more than 90 days after the publication of the initiation notice, the Department nevertheless finds it reasonable to extend the time period for withdrawal in the circumstances of this case. Therefore, in accordance with 19 CFR 353.22(a)(5), we have decided to grant the withdrawal at this time. Accordingly, we are terminating these reviews.

The Department will instruct the U.S. Customs Service (Customs) to liquidate all unliquidated entries of certain stainless steel cooking ware from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after January 1, 1991, at the cash deposit rates. We will further instruct Customs to collect a cash deposit for imports from Namil Metal Company at 1.06 percent, the rate determined in the final results of the 1990 review (59 FR 10788, March 8, 1994), and for imports from Daelim Trading Company, Ltd. at 8.10 percent, the ''all others'' rate established in the less than fair value (LTFV) investigation (52 FR 2139, January 20, 1987). The cash deposit rate for exporters or manufacturers not covered in this or any previous review will continue to be 8.10 percent, the ''all others'' rate established in the LTFV investigation.

This notice is published in accordance with 19 CFR 353.22(a)(5).

Dated: September 3, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–23110 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–427–811]

Certain Stainless Wire Rods From France: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 6, 1996, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain stainless steel wire rods from France. This review covers Imphy S.A., and Ugine-Savoie, two manufacturers/exporters of the subject merchandise to the United States. The period of review (POR) is August 5, 1993, through December 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen Jacques or Jean Kemp, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3434 or (202) 482–4037, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On March 6, 1996, the Department published in the Federal Register the preliminary results of the administrative review of the antidumping duty order on certain stainless steel wire rods from France (61 FR 8915, March 6, 1996). The Department has now completed this administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this administrative review are certain stainless steel wire rods (SSWR), products which are hot-rolled or hot-rolled annealed, and/or picklet rounds, squares, octagons, hexagons, or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling, are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed, and picklet. The most common size is 5.5 millimeters in diameter.

The SSWR subjet to this review is currently classified under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, and 7221.00.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by the respondent by using standard verification procedures, including onsite inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from Imphy S.A. and Ugine-Savoie, manufacturers/exporters of the subject merchandise (respondents), and from Al Tech Specialty Steel Corp., Armco Stainless & Alloy Products, Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., United Steelworkers of America, AFL–CIO/CLC (petitioners). At the request of petitioners, the Department held a hearing on May 13, 1996.

Comment 1: Petitioners contend that the Department's decision to depart from its practice of examining constructed export price (CEP) sales during the POR because respondents were able to link-suspension of liquidation entries with sales should be changed for the final results. Petitioners urge the Department to revise its preliminary results to analyze all constructed export price (CEP) sales during the POR for the purpose of calculating antidumping assessment and cash deposit rates. Petitioners claim that there is nothing in the new statute that requires the Department to depart from its longstanding practice of focusing on CEP sales rather than entries in a review. Petitioners contend that the Department can analyze entries made prior to the suspension of liquidation so long as assessment is applied only to entries in the review period.

Petitioners claim that the only legal justification the Department has offered for its position that sales of merchandise entered prior to the POR should be excluded from the agency's analysis is that ''[m]erchandise proven to have entered to U.S. prior to the suspension of liquidation . . . is not subject within the meaning of section 771(25) of the Act'' (61 FR 8915). Petitioners contend that section 771(25) of the Act is merely a general provision defining ''subject merchandise'' as ''the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, an order under this title or section 303, or a finding under the Antidumping Act of 1921,'' and that this provision did not change prior law. Petitioners further note that nothing prevents the Department from examining CEP sales to derive antidumping rates in the Agreement on Implementation of Article VI of GATT 1994 (WTO Antidumping Agreement). In addition, petitioners claim that neither U.S. law (see 19 U.S.C. 1673e) nor the WTO Antidumping Agreement discusses the manner in which those antidumping duties are to be calculated or whether sales or entries should serve as the basis of that calculation.

Petitioners also contend that the Court of International Trade (CIT) held that it is perfectly lawful for the agency to analyze entries made prior to the suspension of liquidation so long as the assessment is applied only to POR entries (see *The Ad Hoc Committee of Southern California Producers of Gray Portland Cement v. United States,* 18 CIT_____, 914 F. Supp. 535 (1995)).

Petitioners note that the CIT stated ''the consideration of all sales, rather than entries, made during the period of review may result in the consideration of entries made prior to the suspension of liquidation * * *'' Petitioners claim that the respondents' ability to link sales

with entries in this review does not mean that the CIT's holding in *Ad Hoc Committee* would not apply to this situation. Petitioners state that in the review which was the subject of *Ad Hoc Committee,* duties were only assessed on entries which occurred during the POR. Petitioners allege that so long as duties are only assessed on POR entries, the CIT's decision is valid in this proceeding and that the definition of ''subject merchandise,'' referring to merchandise on which duties will be assessed, consistent with the CIT's holding.

Petitioners claim that the Department's proposed regulations also recognize the continued need to focus on CEP sales rather than entries to calculate margins. Petitioners cite the preamble to paragraph (b)(1) of section 351,212 in which ''the Department normally will calculate a duty assessment rate based on sales reviewed, and will apply those rates to entries made during the review period. In all cases, this will result in the assessment of duties on merchandise entered during the review period.'' *Antidumping Duties; Countervailing Duties; Proposed Rule, 1(Proposed Regulations)* 61 FR 7308, 7316 Feb. 27, 1996). Consequently, petitioners argue that the Department should maintain its practice of focusing on CEP sales for dumping analysis purposes but only assessing duties on entries in the POR.

Respondents argue that in the preliminary results of review, the Department correctly determined that respondents' merchandise sold during the POR, but proven to have entered the United States prior to suspension of liquidation should be excluded from the agency's analysis. Respondents note that petitioners do not contest that the merchandise excluded from review by the Department is non-subject merchandise, but that petitioners claim that the Department can legally review sales of merchandise entered prior to the suspension of liquidation provided that duties are only assessed on entries during the POR. Respondents claim that petitioners inappropriately cite *Ad Hoc Committee* and *NSK,* which respondents claim deal with different factual situations and are not applicable to this review.

Respondents argue that the statute, consistent with the WTO Antidumping Agreement, excludes merchandise entered prior to the publication of notice of suspension of liquidation. They claim that section 736(b)(1) of the Tariff Act of 1930, as amended, provides for the imposition of duties on ''entries of the subject merchandise, the liquidation of which has been suspended under section 733(d)(2)''. Respondents also note that section 751 of the antidumping law directs the Department to determine the ''normal value and export price (or constructed export price) of each entry of the subject merchandise'' and calculate the ''dumping margin for such entry'' which is to serve as the basis for assessing duties on the entries. Therefore, respondents argue that the statute is clear that reviewing sales of merchandise that are shown to involve non-subject merchandise via linkage of sales to entries would exceed the mandate of the Department.

Respondents note that the Department's decision in the preliminary results is consistent with previous proceedings. In support of their position, respondents cite *Preliminary Results of Antidumping Duty Administrative Review of High-Tenacity Rayon Yarn from Germany,* 59 FR 32181, 32182 (June 22, 1994), and *Final Results of Antidumping Duty Administrative Review of Industrial Belts and Components and Parts Thereof, Whether Cured of Uncured, From Italy,* 57 FR 8295, 8296 (March 9, 1992). Respondents note that in reaching its determination in the *Yarn* case, the Department clearly stated its practice ''not to include ESP sales that were not subject to the antidumping duty order in the calculation of U.S. price, regardless of when the sale occurred.'' The Department further stated that ''such ESP sales would be excluded from the administrative review if [respondent] could provide adequate documentation, on a sale-by-sale basis, proving that the individual entries of merchandise prior to the preliminary determination could be traced to individual sales during the POR.'' Respondents note that the Department precisely followed this practice in the preliminary results of this review.

Respondents also not that petitioners' counsel has previously advised the Department that respondents can and should link entries of merchandise subject to an antidumping order to sales. Respondents claim that petitioners have not explained their change of position on this issue.

Department's Position: We disagree with petitioners. Sales of merchandise that can be demonstrably linked with entries prior to the suspension of liquidation are not subject merchandise and therefore are not subject to review by the Department. Merchandise that entered the United States prior to the suspension of liquidation (and in the absence of an affirmative critical circumstances finding) is not subject merchandise within the meaning of section 771(25) of the Act.

As we stated in our preliminary results, under Section 751 of the Act, the Department is required to determine the normal value and export price (EP) or constructed export price (CEP) of each entry of subject merchandise during the relevant review period. Because there can be a significant lag between entry date and sale date for CEP sales, it has been the Department's practice to examine U.S. CEP sales during the period of review. *Gray Portland Cement and Clinker from Japan, Final Results of Antidumping Duty Administrative Review,* 58 FR 48826 (September 20, 1993) (the Department did not consider ESP (now CEP) merchandise entered during the POR but sold after the POR). The proposed regulation cited by petitioners (section 361.221) recognizes this practice.

However, the Department has a well established exception to its practice of examining CEP sales during the period of review. That exception applies when a respondent is able to demonstrate, to the satisfaction of the Department, that the merchandise covered by a particular sale entered prior to the suspension of liquidation pursuant to the Department's preliminary determination in the LTFV investigation. *See, High-Tenacity Rayon Filament Yarn, Preliminary Results of Antidumping Duty Administrative Review,* 59 FR 32181 (June 22, 1994). In that review, the Department determined that because merchandise was entered prior to the date of the preliminary determination, it was not covered by the antidumping order. Therefore, the Department excluded these sales from the review. In contrast, in *Certain Corrosion-Resistant Carbon Steel Flat Products from Australia; Preliminary Results of Antidumping Duty Administrative Review,* 60 FR 42507 (August 16, 1995), the respondent was unable to link POR sales to specific pre-suspension entries and, therefore, the Department did not exclude those sales.

In this review, respondents claimed that certain merchandise was not subject to review because it entered prior to the period of review for sale by Metalimphy Alloys Corporation (MAC), an affiliated U.S. company during the period of review. The Department verified that respondents were able to link specific sales during the period to entries of merchandise prior to the suspension of liquidation. In the preliminary results, we excluded those sales from our analysis because respondent had demonstrated that the

merchandise entered prior to the suspension of liquidation.

Petitioners' cite of *Ad Hoc Committee* and *NSK* is not appropriate in this case. *Ad Hoc Committee* differed because, in that case, respondent argued the dumping margins and the assessment of duties on entries made during a review period should have been based on sales of merchandise entered after the review period. The approach advocated by respondent in that case raised the possibility of double counting or missing sales in future reviews, as noted by the Court. The Department's practice, as reflected in the present case, does not involve the danger of inconsistent future reporting. The *NSK* case did not involve a situation in which the respondent could link specific sales and entries. Further, in that case, the Department determined dumping margins based on sampling and not a review of all sales and entries.

Comment 2: Petitioners also contend that respondents' ability to link CEP sales with entries does not permit the Department to examine all entries during the POR, leaving the Department with an incomplete review of sales. Petitioners note that in the preliminary results, the Department did not examine either all sales or all entries during the POR but some very limited hybrid of the two, leading to an incomplete examination of subject merchandise. Petitioners contend that because respondents enter CEP merchandise in one POR and sell it in another POR, the Department cannot examine those entries because the sale has not been made. Specifically, petitioners contend that certain scenarios exist where CEP sales take place during the review but are not reviewed by the Department.

First, petitioners contend that CEP sales made during the POR but where the entry occurs after the POR are not being reviewed by the Department. Petitioners assert that these sales should be included in the Department's final results as the date of sale is in the POR.

Likewise, petitioners contend that CEP sales entered during the POR but sold after the POR are not included in the Department's analysis in this review. Petitioners contend that respondents have not reported the sales linked to these entries at all in their U.S. sales databases. Petitioners note that respondents also have pressed the Department to exclude POR sales with pre-POR entry dates because respondents can link sales with entries. Petitioners assert that the logical consequence of this exclusion is that all entries within the current POR with subsequent (post-POR) dates of sales should be examined in this review by the Department. However, they assert that respondents have not reported CEP entries with post POR sale dates.

Petitioners also noted that the Department included in its preliminary those CEP sales where the entry occurs during the POR but the sale pre-dates the POR. Petitioners contend that the Department has provided no explanation as to why it has included these sales in its analysis.

Petitioners contend that the only practical way to ensure coverage of subject merchandise is by examining all CEP sales. Petitioners argue that the Department include in its final results all sales that fall within the POR.

Respondents state that there is no merit to petitioners' suggestion that the Department's preliminary results lead to a non-comprehensive review of respondents' sales. They contend that petitioners' argument is irrelevant to the issue of whether sales of demonstrably non-subject merchandise are appropriately subject to review. Also, respondents assert that petitioners' position completely ignores the Department's instructions regarding what sales should be reported in an administrative review.

Respondents note that they reported all CEP sales consistent with the instructions of the Department's questionnaire. Respondents assert that the Department's questionnaire instructions ensure that reviews are comprehensive and that no sales of subject merchandise go unreviewed.

Further, respondents contend that petitioners' arguments regarding which sales are included and excluded from the Department's review is inaccurate. They state that in accordance with the Department's reporting instructions, all CEP sales of subject merchandise are included in the Department's initial review or in subsequent reviews.

Respondents argue that petitioners' position on the reporting of CEP transactions includes types of sales that are not covered by the Department's questionnaire as they involve neither POR entries nor post-importation POR sales. Respondents state that the Department will review these sales in the period in which entered. They also argue that the Department's questionnaire instructions do not cover CEP entries made during the POR but with a date of sale after the POR. Respondents contend that these are precisely the type of transactions, as recognized in *Gray Portland Cement,* for which the data required to calculate CEP are not necessarily available at the time of responding to a questionnaire for the period in which the merchandise entered.

Finally, respondents argue that petitioners have no basis for alleging that the sales will not be examined because the corresponding entries will have been liquidated at the time of the second administrative review. They argue under a master-list approach, the entries in the prior review period will not be liquidated until the sale occurs and, even if they are liquidated on a simplified assessment basis, the sale of subject merchandise could be pertinent to a subsequent review for purposes of determining a duty assessment rate and duty deposit rate.

Department's Position: The Department disagrees with petitioners that the Department did not make a comprehensive examination of all relevant sales or entries in the preliminary results. The Department closely examined respondents' submission of sales/entries data in this review, including specifically addressing this issue in its December 1, 1995 supplemental questionnaire and conducting verifications in both the home market and the United States. The Department verified that respondents correctly reported the quantity and value of subject merchandise pursuant to the Department's questionnaire instructions. The questionnaire instructed that respondents were to ''[r]eport each U.S. sale of merchandise entered for consumption during the POR except (1) for EP sales, if you do not know the entry dates, report each transaction involving merchandise shipped during the POR; and (2) for CEP sales made after importation, report each transaction that has a *date of sale* within the POR'' (emphasis in original). The Department found that respondents correctly reported the quantity and value of their home market and U.S. sales consistent with the questionnaire instructions.

CEP sales made after importation will be examined by the Department in the POR in which they are sold consistent with the questionnaire instructions. As indicated in *Gray Portland Cement* and *NSK,* these are the type of CEP transactions for which the data required to calculate CEP may not be available at the time of responding to the Department's questionnaire because the sale occurs after the period of review. We also disagree with petitioner's claim that CEP sales made during the POR but entered after the POR (*i.e.,* after sale) will not be examined. These sales are not covered by the Department's questionnaire instructions for this review, as they do not involve POR entries or post-importation POR sales. The Department will review these sales in the POR in which they are entered

into the United States, if a review is requested. While the Department has some latitude to examine POR sales in lieu of examining POR entries, it is not necessary to do so when the sale occurs prior to entry. For example, respondents reported, and the Department included in this review, CEP transactions in which the merchandise entered during the POR but was sold before the POR (*i.e.*, prior to entry) pursuant to the Department's questionnaire instructions.

Consequently, the Department disagrees with petitioners' view that there has been an incomplete examination of sales and entries during this review. Respondents accurately reported their U.S. sales during the POR pursuant to the questionnaire instructions issued by the Department and the information was fully verified. Petitioners' scenarios of CEP sales and entries not examined in this review were either non-subject merchandise under section 771(25) of the Act or are subject merchandise that will be examined by the Department in any future reviews.

Comment 3: Petitoners argue that the Department's decision in the preliminary results to exclude sales during the POR where the entries preceded the POR would invite manipulation of the dumping laws. In addition, petitioners contend that if respondents can avoid a finding of dumping on sales following issuance of an antidumping order merely by linking those sales with entries made prior to the POR, linkage will become common as a way to avoid dumping duties. Consequently, petitioners argue that the linkage of values and entries would invite respondents to send in as much merchandise as possible before a preliminary determination and sell that merchandise during future years at dumped prices without recourse.

Petitioners note that in their letter to the Department of February 21, 1996, they indicated that there was price discrimination by respondents on CEP sales that entered the U.S. prior to suspension of liquidation when compared to POR sales. Petitioners assert that the Department's policy of linking sales with entries permits dumping practices that would cause a domestic manufacturer to lose business because of price discrimination during the POR. Consequently, petitioners contend that the purpose of the antidumping laws in remedying price discrimination taking place during the POR would be effectuated by the imposition of an antidumping margin that took account of the unfair pricing, even if the duties applied only to POR entries and were used to establish future cash deposit rates.

Petitioners assert that the critical circumstances provision of the statute would not prohibit manipulation. They contend that by law, a finding of critical circumstances is predicated on a number of statutory factors, including not only massive imports of the merchandise, knowledge that dumping is occurring, and a finding by the International Trade Commission (ITC) that the imports are likely to undermine the antidumping order. Thus, petitioners contend that critical circumstances findings go not only to the question of import surges prior to a preliminary decision but to resultant serious injury—a finding that, petitioners assert, is rarely made by the ITC. Petitioners also contend that the critical circumstances provision does not have anything to do with dumping practices in sales that occur after the investigation. Accordingly, petitioners claim that the Department cannot rely on the critical circumstances provision as a means of addressing this price manipulation problem with its approach in the preliminary results.

Petitioners contend that the Department should recognize that examination of CEP sales is critical not only to assessment of duties on past entries, but also to the establishment of a cash deposit rate. Petitioners argue that the cash deposit rate should reflect respondent's pricing practices during the POR. Petitioners state that failure to examine sales that relate to pre-POR entries will ignore potentially significant price discrimination during the POR merely because respondents beat the preliminary determination by their shipments.

Respondents contend that there is no manipulation of the antidumping laws, as all subject merchandise is reviewed by the Department, in accordance with its reporting instructions.

Respondents assert that the exclusion from review of sales of pre-suspension entries requires a rigorous demonstration of verifiable linkage between the particular entries being excluded and their subsequent sale. Respondents believe that linkage will not become the rule because the majority of respondents do not and cannot maintain the necessary information and records to do so. Respondents claim that the Department has recognized this situation citing *Proposed Regulations* at 7316.

Respondents also point out that the critical circumstances provision of the statute is designed to prevent manipulation. Furthermore, respondents note that the Department did not find critical circumstances in the LTFV investigation (see *Final Determination of Sales at Less than Fair Value: Certain Stainless Steel Wire Rods from France,* 58 FR 68865, 68868 (December 29, 1993)).

Respondents argue that petitioners' assertions that the Department's approach will invite price manipulation have nothing to with this case. Respondents claim that petitioners failed to establish any price discrimination between subject and non-subject merchandise (*i.e.* those sales that entered prior to suspension of liquidation) during this review. Respondents assert that the prices charged for all CEP sales examined by petitioners were virtually identical. Consequently, respondents contend that they did not engage any price discrimination.

Respondents also urge the Department to reject petitioners' suggestion that dumping margins should be calculated on non-subject merchandise for purposes of establishing a cash deposit rate for future entries. Respondents assert that it is inappropriate to use sales of non-subject merchandise for deposit rate purposes, in that such sales do not represent a fair, reasonable or accurate basis to gauge estimated duties which is the very purpose of the cash deposit.

Finally, respondents argue that the remedial purpose of the antidumping law in no way supports the examination of non-subject merchandise. Respondents contend that they changed their behavior as a consequence of the LTFV investigation. They argue that the law contemplates that the dumping margins (if any) calculated by the Department should accurately reflect respondent's behavior regarding subject merchandise, not the pricing practices during the POR that include non-subject merchandise.

Department's Position: We disagree with petitioners that the Department's decision in the preliminary results would invite manipulation of the dumping law. We do not agree with petitioners' contention that linkage would encourage other respondents to flood the U.S. market with merchandise prior to a preliminary determination. As we stated in our preliminary results, the exclusion of sales of merchandise entered prior to suspension of liquidation requires that a respondent must demonstrate, to the satisfaction of the Department, the linkage between the entry and the sale. This stringent requirement, coupled with the provisions on critical circumstances, eliminates a significant risk of manipulation. *See, e.g. Certain*

Corrosion-Resistant Carbon Steel Flat Products from Australia; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 42507 (1995) (the Department did not exclude certain sales because the respondent was unable to link the sales to specific pre-suspension entries).

We disagree with petitioners' contention that linkage would encourage dumping as most producers would not have the necessary linkage information that would meet the Department's requirement in a verification. In fact the necessary linkage has been demonstrated in only one case. (See *High-Tenacity Rayon Filament Yarn, Preliminary Results of Antidumping Duty Administrative Review,* 59 FR 32181, (June 22, 1994)).

We examined the issue of potential manipulation throughout the proceeding as well as at our sales verifications of respondents. We found no evidence of ''paired sales,'' where the price of that sale that entered prior to suspension of liquidation was priced lower than the simultaneous sales of the same merchandise to the same customer. We reviewed petitioners' February 21, 1996 submission to the Department concerning alleged price manipulation by respondents as well as respondents' rebuttal submission of February 22, 1996. After examining the issue, we found no evidence that respondents were engaged in price manipulation with sales of pre-POR entries (see Final Analysis Memorandum).

We also disagree with petitioners' arguments concerning critical circumstances in this review. The requirements of the critical circumstances provision demonstrate that Congress only intended that entries made prior to the LTFV preliminary determination be covered under very specific circumstances. In the LTFV investigation, the Department found no critical circumstances warranting inclusion of such entries.

We also disagree with petitioners' assertion that the Department's approach results in an inappropriate cash deposit rate. As discussed above, merchandise proven to have entered the United States prior to the suspension of liquidation (and in the absence of an affirmative critical circumstances finding) is not subject to merchandise within the meaning of section 771(25) of the Act. Sales of non-subject merchandise are not an appropriate basis for the Department to estimate the duties that will be due on future entries of subject merchandise.

Comment 4: Petitioners contend that the Department should not segregate home market channels of distribution for purposes of product group averaging. Petitioners state that the statute and proposed regulations provide for the derivation of averaging groups only for U.S. sales in investigations. Petitioners note that Section 777A(d) of the statute was modified by the Uruguay Round Agreement Act (URAA) to require the averaging of U.S. prices of investigations (see, 19 U.S.C. 1677A(d)(1)). Petitioners also state that under the Statement of Administrative Action (SAA), the averaging of U.S. price with respect to groups of comparable merchandise is limited only to the investigation phase of the proceeding (see, SAA at p. 843). In addition, petitioners state that the statutory section pertaining to averaging in reviews says nothing about the averaging of comparable merchandise in the home market based on factors relating to regions or customers.

Petitioners argue that the Department has erroneously extended this concept to averaging of home market prices in administrative reviews. Petitioners state that neither the plain language of the statute nor the Statement of Administrative Action contemplates extension of the product averaging concept to reviews.

Petitioners argue that the Department has already determined in this review that sales in the home market comprise a single level of trade based on common functions in both channels. Thus, petitioners contend that the Department cannot distinguish between its channels of distribution as different levels of trade for product group averaging. Petitioners also state that the channels of distribution are not distinct based on the class of customer, as all home market sales are to end users. Petitioners argue that the manner in which the sales are made—either from inventory or direct from factory—provide no basis to distinguish these alleged ''channels,'' as all sales are shipped direct from the factory. Consequently, petitioners allege that there is no basis to segregate home market sales in product group averaging based on these ''channels of distribution.''

Petitioners also assert that the Department cannot rely on the ''class of customer'' to distinguish averaging groups. They claim that all sales are to end users and do not involve different points in the claim of distribution of the product. Petitioners note that in past cases, the Department has differentiated between sales to distributors and end-users, recognizing that sales at different points in a chain of commerce may reflect different functions and/or different pricing practices. In support of their position, petitioners cite *Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand,* 60 FR 29553 (June 5, 1995) and *Final Determination of Sales at Less Than Fair Value: Certain Carbon and Alloy Steel Wire Rod from Canada,* 59 FR 18791, 18794 (April 20, 1994).

Petitioners argue that the ''channels'' of trade are not, in fact, different channels of distribution but merely reflect different sales entities that undertake the same role. In the past, petitioners contend that the Department has differentiated between different sales entities that undertake the same role (see, *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Spain,* 59 FR 66931, 66936 (December 28, 1994)).

Consequently, petitioners state that there is no legal or factual justification for segregating averaging groups based on whether the sale was made by Imphy/Ugine-Savoie or by an agent of the wholly-owned joint venture, Ugine-Service. Accordingly, petitioners argue that the Department should eliminate channels of distribution as a factor in its product averaging groups.

Respondents agree that the Department inappropriately included a preference for matching U.S. sales to home market sales in the channel of distribution which the Department deemed ''most comparable to that in which the U.S. transaction was made.'' Respondents contend that having determined that all home market sales were at the same level of trade, the Department should not have truncated its analysis of sales of the foreign like product. Respondents assert that the Department should have conducted its matching exercise on the basis of contemporaneous sales within the level of trade, without excluding sales based upon distribution channel. Respondents contend that the Department's approach subordinated physical comparability to a criterion (distribution channel) which has no foundation in the statute and, hence, which should not have been employed. They state that the Department's elevation of distribution channel over physical characteristics is inappropriate under the antidumping law. Respondents assert that the courts have made clear that selecting proper product matches based on physical characteristics lies at the heart of a fair dumping comparison (see *Timkpin Co.* v. *United States,* 630 F. Supp. 1327, 1336 (CIT 1986) and *Hussey Copper, Ltd.* v. *United States,* No. 95–145 at 6 (CIT 1995)). Respondents argue that in making its comparison, the Department's matching of U.S. and home market sales must be based on the closest identity of physical

characteristics (see *Hussey Copper, Ltd.* v. *United States,* No. 95–145 at 6 (CIT 1995)). Respondents state that any channel of distribution choice is irrelevant to the proper selection. Consequently, respondents contend that the Department's final results should be based on comparisons of contemporaneously sold, identical merchandise within the level of trade being compared and, if identical merchandise was not sold, the most similar merchandise contemporaneously sold within that level of trade should be utilized.

However, if the Department should regard EP sales as more comparable to sales by Imphy/Ugine-Savoie.

Department's Position: We agree with petitioners and respondents that the Department should not use home market channels of distribution for purposes of product group averaging in its calculation of normal value in this administrative review. The Department indicated in the SAA that in determining which sales to include with a particular average, ''Commerce will consider factors it deems appropriate, such as the physical characteristics of the merchandise, the region of the country in which the merchandise is sold, the time period, and class of customer involved.'' SAA at 842. See also, *Proposed Regulations* at 7349. However, that section of the SAA is discussing the average-to-average methodology in investigations. With the exception of the contemporaneity rule in section 777A(d)(2), neither the statute nor the SAA provides any guidance of what, if any, factors should be considered when averaging in reviews. The facts of this case do not warrant averaging by channel of distribution.

Consequently, for the final results, we have not segregated home market channels of distribution for purposes of product group averaging of normal values to compare to U.S. prices. Instead, after correcting the model match program (see comment 6), we have taken the identical and similar merchandise matches generated by the model match program and attempted to match with contemporaneous sales within the same level of trade. If we found no contemporaneous identical merchandise within the same level of trade, we matched without regard to level of trade.

Comment 5: Petitioners allege the Department's level of trade analysis and decision to grant a CEP offset is fundamentally flawed and not consistent with the law. They assert that the Department was incorrect in analyzing CEP sales for level of trade purposes with an adjusted price that deducts U.S. selling expenses. Petitioners contend that there is no legal justification for adjusting the CEP to deduct actual U.S. selling expenses incurred in selling the merchandise prior to determining at what level of trade the sale is made. They claim that the statute says nothing about an adjusted CEP for level of trade purposes, but that the statute merely sets forth the factors the agency must consider in determining whether an adjustment for differences in levels of trade is appropriate.

Petitioners note that the Department, in its preamble to the *Proposed Rules,* stated that we will look at the CEP as adjusted but will look at the EP and normal value (NV) price as unadjusted for levels of trade. Petitioners assert that by making the U.S. CEP level of trade a ''constructed'' or ''adjusted'' level of trade but NV sales ''unconstructed'' or unadjusted, the Department is beginning its analysis with an apples-and-oranges comparison that is inconsistent with law and longstanding agency practice to ''make a fair comparison of sales in the two markets by reconstructing prices at a specific common point in the chain of commerce, when the merchandise is leaving the factory gates.'' (See *Porcelain-on-Steel Cooking Ware from Mexico,* 58 FR 43327, 43330 (August 16, 1993) and *AOC International, Inc.* v. *United States,* 713 F.2d 1568, 1572 (Fed. Cir. 1983), *cert. denied,* 465 U.S. 1022 (1984)).

Petitioners note that by law, the starting price for a CEP sales is the price offered to an unaffiliated purchaser in the United States and they contend that the Department cannot alter the statutory definition of CEP sales merely to ease its ability to make a level of trade adjustment.

Petitioners also assert that if the Department does not use the unadjusted starting price for CEP sales just as it does for EP and normal value sales, the Department will establish a system whereby sales that are made in the same fashion in both the U.S. and home markets will not be regarded as the same level of trade. Petitioners contend this approach is unreasonable and illogical. They note that the Department used the same alleged incorrect CEP deduction methodology in *Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 15766, 15768 (April 9, 1996).

Petitioners also contend that the Department should not rely solely on selling functions as the determinant of whether different levels of trade exist. Petitioners state that the statute sets forth two factors—selling functions and price distinctions—as the basis for determining whether an adjustment for differences in levels of trade should be granted (see 19 U.S.C. 1677b)(a)(7)). Petitioners argue that the statute does not, however, state that levels of trade themselves are based on selling functions. Petitioners continue that the term ''level of trade'' is not new, but has been subject to much litigation and has consistently been defined as the point in the chain of commerce that a sale is made, such as the wholesale, retail or end-user level. In support of their position, petitioners cite *NAR S.p.A.* v. *United States,* 13 CIT 82, 707 F. Supp. 553, 556 (1989). Petitioners argue that based on this definition and the facts of record, the Department should treat all U.S. sales as a single level of trade.

Petitioners argue that if the Department persists in its assumption that section 772(d) adjustments to CEP must be made to place CEP on an equal basis as EP, then the Department cannot conclude that having made these adjustments the CEP and EP sales reflect different levels of trade, as the entire purpose of the adjustment was to render the CEP and EP prices as comparable.

Respondents contend that petitioners' challenges to the Department's methodology for analyzing level of trade and the decision to grant a CEP offset are without merit. Respondents assert that the methodology used by the Department for analyzing level of trade is consistent with, and required by, the law. They contend that the Department properly conducted its examination of the CEP level of trade based on the price after adjustments under section 772(d), i.e., looking at the selling functions performed by the foreign exporters in selling to MAC, an affiliated U.S. super-distributor, and to end-users in the home market. Respondents argue that the Department conducted a careful and thorough analysis of selling functions and properly determined that Imphy and Ugine-Savoie assumed significantly different and more selling functions for home market sales to end-users, which constitutes a more advanced level of trade than the CEP sales. Respondents state that pursuant to section 773(a)(7)(b), the Department appropriately granted a CEP offset.

Department's Position: We agree with respondents. As described in our recent *Preliminary Results of Antidumping Duty Administrative Reviews of Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Thailand and the United Kingdom,* 61 FR 35713 (July 8, 1996), the Department's position

is that it will, to the extent practicable, calculate normal value (NV) based on sales at the same level of trade as the U.S. sales. When the Department is unable to find sales of the foreign like product in the comparison market at the same level of trade as the U.S. sale, the Department may compare the U.S. sale to sales at a different level of trade in the comparison market.

In accordance with section 773(a)(7)(A) of the Act, if sales at allegedly different levels of trade are compared, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First there must be differences between the actual selling activities performed by the exporter at the level of trade of the U.S. sale and the level of trade of the comparison market sales used to determine NV. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the difference levels of trade in which NV is determined.

Section 773(a)(7)(B) of the Act establishes that a CEP ''offset'' may be made when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level-of-trade adjustment.

In implementing these principles in this review, we issued a supplemental questionnaire on December 13, 1995 concerning level of trade. We asked respondents to explicitly state what specific differences and similarities there were in selling functions and/or support services between all channels of distribution in the home market and the United States.

In order to determine whether separate levels of trade actually existed within or between the U.S. and home markets, we reviewed the selling activities associated with each channel of distribution claimed by the respondents. However, the starting point for our analysis was the separate channels. Therefore, we did not rely solely on selling activities.

Pursuant to section 773(a)(7)(B)(i) of the Act and the SAA at 827, in identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the constructed price, i.e. after the expenses and profit were deducted under section 772(d) of the Act. Whenever sales were made by or through an affiliated company or agent, we considered all selling activities of both affiliated parties, except for those selling activities related to the expenses deducted under section 772(d) of the Act in CEP situations.

In reviewing the selling functions reported by the respondents, we examined all types of selling functions and activities reported in respondents' January 18, 1996 supplemental response on level of trade. In analyzing whether separate levels of trade existing in this review, we found that no single selling function was sufficient to warrant a separate level of trade in the home market (see *Proposed Regulations* at 7348).

In determining whether separate levels of trade existed in or between the U.S. and home market, the Department considered the level-of-trade claims of respondents. To test the claimed levels of trade, we analyzed the selling activities associated with the channels of distribution respondents reported. We determined that fewer and different selling functions were performed for CEP sales to MAC than for home market sales to end-users. In addition, we found that the home market sales involved a more advanced stage of distribution (to end-users) as compared to respondents' CEP sales in the United States (distributor).

In this review there were no sales of the foreign like product in the home market at the same level of trade as that of the CEP sales. Therefore, we examined whether a level-of-trade adjustment was appropriate.

We disagree with petitioners that there is no evidence of any commercial differences or distinct selling functions between the claimed two levels of trade in the U.S. market. For the U.S. market, respondents reported two levels of trade: (1) sales to end users through MAC (EP sales); and (2) sales to distributors through MAC, Techalloy and US&A (CEP sales). The Department examined and verified the selling functions performed for both levels of trade. As we indicated in our *preliminary results,* we found that the selling functions were sufficiently different in customer sales contacts, technical services, inventory maintenance, computer systems and administrative functions to warrant two levels of trade in the United States.

We disagree with petitioners' contention that the Department should base the level of trade on the starting price of CEP sales. As we discussed in the commentary of the *Proposed Regulations* at 7347, the Department believes that this position is not supported by the statute or the SAA, and that it is neither reasonable nor logical. First, the statue clearly defines CEP as a U.S. price ''as adjusted'' (Section 772(b) of the Act). Moreover, if the starting price is used for all U.S. sales, the Department's ability to make meaningful comparisons at the same level of trade (or appropriate adjustments for differences in levels of trade) would be severely undermined in cases involving CEP sales. Using the starting price to determine the level of trade of both EP and CEP sales would result in a finding of different levels of trade for an EP an EPA and a CEP sale adjusted to a price that reflected the same selling functions. Accordingly, the Department will follow the commentary of the proposed regulations which specify that the level of trade analyzed for EP sales is that of the starting price, and for CEP sales it is the constructed level of trade of the price after the deduction of U.S. selling expenses and profit.

Comment 6: Petitioners contend that the Department's product concordance computer program is flawed and does not compare U.S. sales to the most similar merchandise in accordance with the methodology that the Department intended to use. Petitioners note that they do not disagree with the proposed comparisons or the hierarchy and they agree that a focus on a hierarchy of grade, diameter and further processing is consistent with the approach adopted in the underlying investigation.

However, petitioners allege that the program had the following errors: (1) The program failed to search for differences in further processing before searching for different grades; (2) the product match program failed to search for differences in diameters before searching for different grades; (3) the program ignored similar grade comparisons and substituted non-similar grade comparisons; (4) where similar grade comparisons were not possible, the program selected dissimilar merchandise rather than relying on constructed value; and (5) the program improperly rejected similar comparison sales because the Department compared home market variable manufacturing costs stated in cost per kilogram to U.S. variable manufacturing costs stated in cost per pound for purposes of the 20 percent difference-in-merchandise analysis.

Respondents agree that the Department's model match computer program did not properly match U.S. sales to the identical or most similar merchandise sold in the home market. Respondents agree with petitioners that the Department should use the same model matching methodology that the Department used in the LTFV investigation. Respondents contend that

the Department should match identical U.S. and home market products by control number (CONNUM), before matching similar products. Respondent notes that to identify identical products, Imphy used its internal product code and Ugine-Savoie used its commercial grade and internal product code, in addition to the Department's specified characteristics (i.e., grade, diameter, and further processing). Therefore, respondents urge the Department to correct the ministerial error in the model match program and rely on CONNUMs to identify and match identical products.

Department's Position: We agree with both petitioners and respondents, in part, that the Department's model computer program did not match products as we intended. We have corrected the errors for the final results. For the final results, we have used the model match methodology used by the Department in the LTFV investigation and are therefore using respondents' CONNUMs to match identical products. The Department confirmed the accuracy of respondents' reported home market and U.S. CONNUMs, product codes and physical characteristics of the products at verification.

For those U.S. sales that do not have an identical match in the home market, the model match program identifies similar matches using the following three physical criteria: the grade of the wire rod, the diameter and whether the product was further processed or not. The Department's model match program matches similar products by grade using the identical or most similar grade as indicated in Appendix 3 of the January 11, 1996 supplemental response and the product matching hierarchy as described in Appendix 4 of the same January 11, 1996 supplemental response.

We disagree with petitioners that the Department's model match program failed to search for differences in further processing or diameters before searching for different grades. The program did search for differences in further processing or diameters; however, the error in the difference in merchandise portion of the program resulted in erroneous comparisons in the model match that made it appear that the program did not search for differences in further processing or diameters before searching for different grades. We have corrected this error for the final results.

Comment 7: Petitioners contend that the Department should apply facts available to recalculate imputed credit for certain U.S. sales with unreported payment dates, by relying on the date of the final results of this review as the date of payment, as the Department did in the underlying investigation. Petitioners also assert that when date of payment is not reported because payment has not been made, the Department's long-standing practice has been to use the date of the final determination as the surrogate for the date of payment. In support of their position, petitioners cite *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Belgium,* 58 FR 37083 (July 9, 1993) and *Final Determination of Sales at Less Than Fair Value Certain Stainless Steel Wire Rod from France,* 58 FR 68865, 68871 (December 29, 1993).

Department's Position: We agree with petitioners and we have used the date of the final results as date of payment for those U.S. sales when there is no reported date of payment, consistent with Department practice. (See *Carbon Steel Flat Products from Belgium* and *Certain Stainless Steel Wire Rods from France*).

Comment 8: Petitioners allege that the Department erroneously treated marine insurance expenses as an indirect selling expense. Petitioners contend that these expenses should be treated as movement charges, as the Department did in the underlying investigation and consistent with the Department's normal practice.

Department's Position: We agree with petitioners and have corrected the error for the final results.

Comment 9: Petitioners allege that the Department made the following ministerial errors: (1) The Department failed to include cost of manufacture in calculating constructed value; (2) the Department failed to convert the CEP offset from French francs to U.S. dollars; (3) the Department failed to cap the CEP offset by the amount of indirect selling expenses incurred in the United States; (4) the Department failed to include inventory carrying expenses in its calculation of total U.S. indirect selling expenses; (5) the Department failed to subtract respondents' repacking expenses from U.S. price; (6) the Department failed to subtract movement expenses from net home market price for its sales below-cost analysis; and (7) the Department failed to subtract home market indirect selling expenses from home market prices in conducting its arm's length test.

Department's Position: We agree with petitioners with the exception of point seven (subtraction of home market indirect selling expenses from home market prices for the arm's length test). In calculating the net home market price used for the arm's length test, the Department deducts direct selling expenses, discounts and rebates, movement expenses and packing from the home market gross unit price. There is no deduction for indirect selling expenses in the arm's-length test.

Comment 10: Respondents allege that the Department incorrectly converted the quantity fields for U.S. sales by dividing the quantity when it should have multiplied the quantity field by the pounds to kilogram conversion factor.

Department's Position: We agree and have corrected this error for the final results.

Comment 11: Respondents allege that the Department should not have deducted indirect selling expenses incurred in France in its calculation of CEP. Respondents claim that Section 772(d)(1) of the antidumping law does not provide for the deduction of indirect selling expenses incurred in the home market as they do not represent expenses ''associated with economic activities occurring in the United States.'' Respondents also note that the Department's proposed antidumping regulations confirm that indirect selling expenses incurred in the home market for sales to an affiliated importer are not expenses within the meaning of section 772(d)(1). Respondents claim the commentary makes a clear distinction between expenses associated with selling to the affiliated reseller in the United States and those expenses made to the affiliated reseller's unaffiliated customer.

Petitioners disagree with respondents' comment that the Department incorrectly calculated CEP by deducting all selling expenses, regardless of where incurred. Petitioners argue that the plain language of section 772(d)(1) requires the Department to deduct all expenses that relate to U.S. sales. Petitioners contend that this provision has been interpreted by the courts to require the deduction of the types of indirect selling expenses incurred by the foreign producer outside of the United States. In support of their position, petitioners cite *Silver Reed America, Inc.* v. *United States,* 683 F. Supp. 1393, 1397 (CIT 1988). Petitioners allege that the new statute did not change this fundamental requirement and, indeed, the legislative history and the SAA show clear legislative intent not to change the calculation of CEP from prior law (see, SAA at 823–4; S. Rep. No. 412, 103d Cong. 2d Sess. At 63 (1994). Petitioners argue that based on the plain language of the statute, the agency may not construe another, ambiguous sentence

in the SAA to limit CEP deduction to those incurred in the United States.

Department's Position: We agree with respondents in part. The Department does not deduct indirect expenses incurred in selling to the affiliated U.S. importer under section 772(d) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326, 30352 (June 14, 1996). As stated clearly in the SAA, and as required by the WTO antidumping agreement, that provision only permits deduction of expenses associated with economic activities occurring in the United States. *See SAA* at 823: Antidumping Agreement, article 2.4. However, some of the respondents' indirect expenses incurred in the home market are actually associated with economic activities in the United States. Specifically, liability insurance purchased in France is associated with U.S. economic activities to the extent it covers subject merchandise while warehoused in the United States. On the other hand, some indirect expenses involved in this case relate solely to the sale to the affiliated importer. For example, inventory carrying costs incurred prior to exportation relate solely to the sale to the affiliated importer. Further, unlike the situation in *Pasta from Italy*, the inventory carrying costs in the present case were not verified to relate exclusively to the product sold to the unaffiliated purchaser in the United States. Finally, contrary to petitioners' contention, the URAA changed the deductions in CEP situations. SAA at 823. Therefore, cases addressing pre-URAA practice are not applicable.

Comment 12: Respondents allege that the Department erroneously failed to take into consideration freight charges borne by customers in the U.S. market in the calculation of EP and CEP. Respondents claim that the Department should correct this apparent ministerial error by adding freight revenue to price.

Department's Position: We agree with respondents and have corrected this error for the final results.

Comment 13: Respondents claim that the Department overstated total profit by failing to take into account imputed expenses (credit expenses and inventory carrying costs) in total expenses used to calculate total actual profit. Respondents note that the Department took imputed expenses into account in its calculation of CEP and normal value. They argue that, to the extent that imputed expenses are considered expenses for that purpose, by definition, they are also expenses within total expenses pursuant to section 772(f)(2)(C). Consequently, respondents argue that the Department should correct this error in its final results of review and either include imputed expenses in the total expenses deducted from total revenue used in calculating total actual profit or eliminate their deduction in determining CEP and normal value.

Petitioners argue that the Department correctly calculated excluded expenses from the expenses used to calculate total actual profit. Petitioners note that the Department based its profit calculations on the actual total revenues and the actual expenses reported by respondents for subject merchandise. Petitioners contend where the Department relies on actual expenses in its calculation, the use of imputed expenses is unnecessary and unwarranted. Also, petitioners argue that including the imputed credit and inventory carrying expenses as respondents requested, would double-count interest expenses.

Department's Position: We agree with petitioners. It is the Department's policy to base the calculation of profit for CEP sales on actual revenues and expenses that are listed on the company's audited financial statements. Section 772(f)(1) and 772(f)(2)(D) state that the profit shall be an amount determined by multiplying the total actual profit by the applicable percentage and that the total actual profit means the total profit earned by the foreign producer, exporter, and affiliated parties. In calculating the per unit cost figures, the Department has included net interest expense. Therefore, the Department does not need to include imputed interest expenses in the profit calculation since we have already accounted for actual interest in computing ''actual profit'' under section 772(f)(1). When the Department allocates a portion of the actual profit to each U.S. CEP sale, we have included imputed credit and inventory carrying costs as part of the total U.S. expenses allocation factor. This methodology is consistent with Section 772(f)(1) of the statute which defines ''total United States Expenses'' as the total expenses described under section 772(d) (1) and (2). Such expenses include both imputed credit and inventory carrying costs.

Comment 14: Respondents contend that the Department should not have included indirect selling expenses incurred in France in the total United States expenses used to calculate CEP profit. Respondents state that indirect selling expenses incurred in the home market are not expenses encompassed within section 772(d)(1) of the antidumping law. Accordingly, respondents argue that for the same reasons that these expenses should also not be deducted from CEP (see Comment 11), they should also not be treated as U.S. expenses to which profit is to be allocated pursuant to section 772(d)(3).

Petitioners argue that the relevant expenses under section 772(d)(1) are all selling expenses related to U.S. sales, regardless of where incurred. Consequently, petitioners contend that the Department's decision in the preliminary results to account for all direct and indirect selling expenses in the CEP profit calculations is correct and should be maintained for the final result.

Department's Position: We agree with respondents in part to the extent these expenses are not part of the 772(d)(1) adjustment (see comment 11), they should also not be included in U.S. expenses for purposes of calculating CEP profit.

Comment 15: Respondents allege that the Department inadvertently overstated normal value by double-counting U.S. commissions in its circumstances of sale adjustment to normal value for EP sales. Respondents also contend that the Department double-counted selling and packing expenses and that the Department neglected to apply the CEP offset when basing NV on constructed value.

Petitioners agree with respondents that the Department double-counted commissions and should correct the ministerial error.

Department's Position: We agree and have corrected these errors for the final results.

Comment 16: Respondents contend that the Department's proposed duty assessment methodology is impractical and unnecessarily burdensome. Respondents claim in view of their verified linkage of entities to sales, the Department is in a position to issue assessment instructions on a master list approach in this review. Respondents note that the Department's commentary to the Proposed Regulations acknowledged that linking sales to entries results in the most precise determination/assessment of antidumping duties.

At the same time, respondents state that they recognize that the Department may prefer not to proceed with a master list approach, for its own convenience and that of the U.S. Customs Service. In that event, respondents state that they would not object to the ad valorem assessment rate approach set forth in the Department's proposed regulations provided that the rate is not constructed based on transactions involving entries of non-subject merchandise (i.e.,

merchandise outside the scope of the SSWR order because it entered prior to the suspension of liquidation). Respondents assert that encompassing sales of entities which are not subject to the antidumping duty order in this review in the calculation of the duty assessment rate would grossly distort the margin calculation and resultant duties.

Respondents assert that the proposed methodology contemplates calculating an individual duty assessment amount for EP transactions and a duty assessment rate for CEP transactions. Respondents argue that the proposed duty assessment rate methodology for EP transactions is entirely unnecessary since MAC is the only importer. Therefore, respondents argue there is no need to distinguish between EP and CEP sales. They contend that the Department should either compute a uniform duty assessment amount or rate, based upon the sales quantity or the entered value of the sale reviewed, as applicable, if it opts for a simplified assessment approach.

Petitioners state that the assessment instructions are consistent with the Department's past practice of assessing duties on entered values and also consistent with the proposed regulations. In support of their position, petitioners cite *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, Final Results of Antidumping Duty Administrative Review,* 56 FR 31692, 31693–5, and 31698—701 (July 11, 1991); and *Proposed Regulations* at 7316 and 7364. Petitioners contend that the only justifiable reason to rely on entries rather than sales is if the Department can tie all entries with sales and assess sale-specific duties on POR entries. Petitioners claim that where respondents cannot derive dumping margins on all POR entries as is true in this review, the use of a uniform assessment rate in lieu of sales-specific rates is a reasonable alternative for the Department. However, petitioners state that given this approach, the most accurate manner of determining the magnitude of dumping during the POR is based on an examination of all CEP sales, not entries, which petitioners claim is consistent with the Department's normal practice and its proposed regulations.

Department's Position: We agree with petitioners that our assessment instructions are consistent with those described in our *Proposed Regulations* at 7316. As the Department discusses in its commentary in the *Proposed Regulations,* section 351.212(b)(1) of the proposed regulations provides that the Department normally will calculate a duty assessment rate based on sales reviewed, and will apply those rates to entries made during the review period. This is consistent with past practice and has been upheld by the courts. See, *Antifriction Bearings from France, et al.,* 60 FR 10900, 10902 (1995); *Koyo Seiko v. United States,* 796 F. Supp. 1526, 1529 (CIT 1992). In all cases, this will result in the assessment of duties on merchandise entered during the review period. To the extent possible, these assessments will be specific to each importer, because the amount of duties assessed should correspond to the degree of dumping reflected in the price paid by each importer. In this review, all subject merchandise was imported by MAC, an affiliated distributor of the respondents.

We disagree with petitioners' contention that the only reason to rely on entries rather than sales is if the Department can tie all entries with sales. As we stated in our *Proposed Rule,* it is the Department's belief that, except in unusual situations, it should not abandon the objective of assessing duties on the basis of entries. In most antidumping proceedings, it is necessary to assess duties on the basis of entries in order to maintain continuity with periods of no review and to avoid the over- or under-collection of duties.

Final Results of Reviews

As a result of our review, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Imphy/Ugine-Savoie	8/5/93–12/31/94	10.06

The Department shall determine, and the Customs service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of final results of review for all shipments of certain stainless steel wire rods from France entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates for those firms as stated above (except that if the rate for a particular product is *de minimis i.e.,* less than 0.5 percent, a cash deposit rate of zero will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.51 percent for stainless steel wire rods, the all others rate established in the LTFV investigations. See *Amended Final Determination and Antidumping Duty Order: Certain Stainless Steel Wire Rods from France,* (59 FR 4022, January 28, 1994).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial

protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 3, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–23234 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–M

AURA, Inc.; Notice Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–074. *Applicant:* The Association of Universities for Research in Astronomy, Inc., Washington, DC 20036. *Instrument:* (2) 8M Optical Telescope Primary Mirrors. *Manufacturer:* REOSC Optique, France. *Intended Use:* See notice at 61 FR 41774, August 12, 1996. *Reasons:* The foreign instrumentation consists of two eight-meter mirrors with (1) image resolution approaching 0.1 arcsec at 2.2μm wavelength, with near diffraction limited imaging at longer wavelengths, (2) optical images of < 0.3 arcsec in size and (3) a contribution to total IR emissivity of ≤ 4%.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, is being manufactured in the United States.

The National Optical Astronomy Observatories advises that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–23108 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

The Pennsylvania State University et al.; Notice of Consolidated Decision on Applications, for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 96–025. *Applicant:* The Pennsylvania State University, State College, PA 16804–0030. *Instrument:* Mach-Zehnder Interferometer, Model OP35–I/O. *Manufacturer:* UltraOptec Inc., Canada. *Intended Use:* See notice at 61 FR 28175, June 4, 1996. *Reasons:* The foreign instrument provides a dual beam configuration for in- and out-of-plane displacement in the 10Khz—35Mhz frequency range. *Advice received from:* The National Aeronautics and Space Administration, July 29, 1996.

Docket Number: 96–046. *Applicant:* Smithsonian Institution, Washington, DC 20560. *Instrument:* Electron Microprobe, Model JXA–8900R. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 61 FR 28175, June 4, 1996. *Reasons:* The foreign instrument provides a high accuracy element analysis of microareas with (1) a depth of focus of ±1mm at magnification of x 100 and (2) secondary electron image resolution to 5mm. *Advice received from:* The National Institute of Standards and Technology, July 25, 1996.

Docket Number: 96–054. *Applicant:* University of Georgia, Trifton, GA 31794. *Instrument:* Ground Conductivity Meter, Model EM38. *Manufacturer:* Geonics Ltd., Canada. *Intended Use:* See notice at 61 FR 30221, June 14, 1996. *Reasons:* The foreign instrument provides: (1) rapid survey of soil conductivity patterns by not using ground electrodes and (2) georeferencing using GPS. *Advice received from:* The Department of Agriculture, July 24, 1996.

Docket Number: 96–058. *Applicant:* American Museum of Natural History, New York, NY 10024–5192. *Instrument:* Electron Microprobe, Model SX 100. *Manufacturer:* Cameca, France. *Intended Use:* See notice at 61 FR 33902, July 1, 1996. *Reasons:* The foreign instrument provides high accuracy element analysis of microareas with precise point analysis electron imaging, x-ray mapping and cathodoluminescence. *Advice received from:* The National Institute of Standards and Technology, July 25, 1996.

Docket Number: 96–064. *Applicant:* University of California, Davis, Davis, CA 95616. *Instrument:* Magnetometer and Demagnetizer. *Manufacturer:* Molspin Instruments, United Kingdom. *Intended Use:* See notice at 61 FR 33903, July 1, 1996. *Reasons:* The foreign instrument provides portability and operability in harsh environments to measure remanent magnetism in rock samples in Antarctica. *Advice received from:* The U.S. Geological Survey, August 5, 1996.

The National Aeronautics and Space Administration, the National Institute of Standards and Technology, the Department of Agriculture and the U. S. Geological Survey advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–23104 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

The Pennsylvania State University, et al; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision*: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 96–048. *Applicant*: U.S. Department of Agriculture, Corvallis, OR 97331–7102. *Instrument*: Mass Spectrometer System, Model Europa 20–20. *Manufacturer*: Europa Scientific, Inc., United Kingdom. *Intended Use*: See notice at 61 FR 30220, June 14, 1996. *Reasons*: The foreign instrument provides a 120° extended geometry magnetic sector analyzer and a 120 position autosampler for solid and liquid samples. *Advice received from*: The National Institutes of Health, June 11, 1996.

Docket Number: 96–060. *Applicant*: University of Minnesota, St. Paul, MN 55108. *Instrument*: EPR Spectrometer. *Manufacturer*: Bruker, Germany. *Intended Use*: See Notice at 61 FR 33902, July 1, 1996. *Reasons*: The foreign instrument provides: (1) a standard rectangular resonation with s/n 330:1 using weak pitch under standard conditions, (2) field accuracy better than 800 mG over the full range and (3) a liquid helium cryostat variable between 3.8—300 K. *Advice received from*: The National Institutes of Health, July 23, 1996.

Docket Number: 96–062. *Applicant*: University of Oklahoma, Norman, OK 73019. *Instrument*: ESR Spectrometer System. *Manufacturer*: Bruker Instruments, Germany. *Intended Use*: See notice at 61 FR 33902, July 1, 1996. *Reasons*: The foreign instrument provides: (1) a cavity capable of temperature regulation to 4°K by a liquid helium cooling system and (2) acceptance of a TM 110 cavity that is optimized for aqueous solutions in 200 µ flat cells. *Advice received from* The National Institutes of Health, July 23, 1996.

Docket Number: 96–063. *Applicant*: University of Georgia, Athens, GA 30602–2022. *Instrument*: SIR Mass Spectrometer, Model Delta C. *Manufacturer*: Finnigan MAT, Germany. *Intended Use*: See notice at 61 FR 33902, July 1, 1996. *Reasons*: The foreign instrument provides: (1) sensitivity of 1500 molecules CO_2 per mass 44 ion under He flow conditions, (2) a viscous flow dual gas inlet and (3) a multi-element multiple collector system with 6 Faraday cups for ^{13}C, ^{15}N, ^{18}O and ^{34}S analysis. *Advice received from*: The National Institutes of Health, July 23, 1996.

The National Institutes of Health advises in its memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–23106 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–M

University of California, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 96–044. *Applicant:* University of California at Los Angeles, Los Angeles, CA 90095–1547. *Instrument:* Ti:Sapphire Laser. *Manufacturer:* MBP Technologies, Inc, Canada. *Intended Use:* See notice at 61 FR 28175, June 4, 1996. *Reasons:* The foreign instrument provides: (1) a pulse energy of 500 mJ/pulse at 10 Hz, (2) a tunable band width of 650 nm to 1000 nm and (3) a repetition rate of 10 Hz (maximum). *Advice received from:* A university-based optical science research center, August 2, 1996.

Docket Number: 96–059. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Electronic Speckle Pattern Interferometry System, Model SD–10–S. *Manufacturer:* Newport Instruments AG, Switzerland. *Intended Use:* See notice at 61 FR 33902, July 1, 1996. *Reasons:* The foreign instrument provides measurement of structural deformations as small as .05 mm over a surface ranging from 30 x 40 mm to 500 x 600 mm for use in an active noise supression system. *Advice received from:* A domestic manufacturer of similar equipment, August 1, 1996.

Docket Number: 96–050. Applicant: University of Michigan, Ann Arbor, MI 48109–2150. Instrument: (1) Infrared Headway Sensor Systems, Model ODIN 4F MS. Manufacturer: Leica AG, Switzerland. Intended Use: See notice at 61 FR 30220, June 14, 1996. Reasons: The foreign instrument provides long and short range infrared sensors, a control algorithm and a driver interface for an ''intelligent'' cruise control system for automobiles. Advice received from: A private highway safety research organization, August 1, 1996.

The private organizations we consulted with on these dockets advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–23105 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–401]

Cotton Shop Towels From Peru: Determination Not To Terminate Suspended Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Determination Not To Terminate Suspended Investigation.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to terminate the suspended countervailing duty investigation of cotton shop towels from Peru.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Rick Johnson or Jean Kemp, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1996, the Department published in the Federal Register (61 FR 40408) its intent to terminate the suspended investigation on cotton shop towels from Peru. In accordance with section 355.25(d)(4)(iii) of the Department's regulations, the Secretary of Commerce will conclude that a

suspension agreement is no longer of interest to interested parties if no domestic interested party (as defined in sections 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to terminate a suspended investigation.

Within the specified time frame, we received from a domestic interested party (Milliken & Company) an objection to our intent to terminate the suspended investigation. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not terminate the suspended investigation.

This determination is in accordance with 19 CFR 355.25(d)(4).

Dated: September 5, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 96–23233 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–421–601]

Standard Chrysanthemums From the Netherlands; Final Results of Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Reviews.

SUMMARY: On May 6, 1996, the Department of Commerce (the Department) published in the Federal Register (61 FR 20406) its preliminary results of administrative reviews of the countervailing duty order on standard chrysanthemums from the Netherlands for the periods January 1, 1992 through December 31, 1992 and January 1, 1993 through December 31, 1993. We have completed these reviews and determine the net subsidies to be 0.43 percent *ad valorem* for the period January 1, 1992 through December 31, 1992, and 0.80 percent *ad valorem* for the period January 1, 1993 through December 31, 1993. The Department will instruct the Customs Service to assess countervailing duties as detailed in the *Final Results of Reviews* section of this notice.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Anne D'Alauro, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1996, the Department published in the Federal Register (61 FR 20406) the preliminary results of its administrative reviews of the countervailing duty order on standard chrysanthemums from the Netherlands (*Preliminary Results*). We invited interested parties to comment on the preliminary results. The Floral Trade Council, petitioner, and the Government of the Netherlands (GON), respondent, submitted both case and rebuttal briefs. The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

The periods covered by the reviews were January 1, 1992 through December 31, 1992 and January 1, 1993 through December 31, 1993. These reviews were conducted on an aggregate basis and involve 13 programs.

Applicable Statute and Regulations

The Department is conducting these administrative reviews in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Reviews

Imports covered by these reviews are shipments of Dutch standard chrysanthemums. Such merchandise is classifiable under item number 0603.10.70 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Based on our analysis of questionnaire responses, verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

A. Programs Previously Determined To Confer Subsidies

1. Aids for the Creation of Cooperative Organizations

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is 0.07 percent *ad valorem* for 1992 and 0.04 percent *ad valorem* for 1993.

2. Glasshouse Enterprises Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is 0.17 percent *ad valorem* for 1992 and 0.09 percent *ad valorem* for 1993.

3. Aids for the Reduction of Glass Surface

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than 0.005 percent *ad valorem* for 1992 and less than 0.005 percent *ad valorem* for 1993.

4. Steam Drainage System

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than 0.005 percent *ad valorem* for 1992 and less than 0.005 percent *ad valorem* for 1993.

B. New Program Found to Confer Subsidies Stimulation for the Innovation of Electric Energy Program

In the preliminary results, we found that this program conferred benefits on the subject merchandise. Our analysis of

the comments submitted by the interested parties, summarized below, has not led us to modify our findings from the preliminary results for this program. On this basis, the net subsidy for this program is 0.18 percent *ad valorem* for 1992 and 0.66 percent *ad valorem* for 1993.

II. Programs Found Not to Confer Subsidies

In the preliminary results, we found the following programs to be non-countervailable.

1. Arrangement for Stimulation of Innovation Projects
2. Arrangement for Structural Improvements and the Complementary Scheme for Investment in Agricultural Holdings
3. Natural Gas Provided at Preferential Rates
4. Income Tax Deduction
5. Value Added Tax (VAT) Reduction of 6 Percent for Natural Gas Users and Partial Restitution of VAT for Mineral Oils, Fuels, Bulk or Bottled Gas
6. Guarantee Fund for Agriculture

Our analysis of the comments submitted by interested parties, summarized below, has not led us to modify our findings from the preliminary results.

III. Programs Found to be Not Used

We determine that producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

1. Investment Incentive (WIR)—Regional Program
2. Loans at preferential interest rates

Analysis of Comments

Comment 1: Respondent contends that the Department improperly determined the Stimulation for the Innovation of Electric Energy (SES) program to be countervailable. Respondent states that the Uruguay Round Agreement Act (URAA) exempts from countervailability assistance to promote adaptation of existing facilities to new environmental requirements.

Petitioner disagrees that there is a general exemption for subsidies which provide environmental benefits. Instead, the petitioner notes that Article 8(c) of the Agreement on Subsidies and Countervailing Measures lists certain non-actionable subsidies benefitting the environment and that one of the criteria necessary for the exemption is that the new environmental requirements are imposed by law or regulation. Petitioner argues that the GON program encouraging the installation of cogeneration equipment is not pursuant to a new environmental requirement imposed by law or regulation.

Department's Position: The Department disagrees with respondent. The URAA amendments to the Act, including amendments pursuant to 8.2(c) of the Agreement on Subsidies and Countervailing Measures, apply to reviews initiated pursuant to requests for administrative reviews filed after January 1, 1995. As such, the provisions of the URAA referenced by respondent do not apply to these reviews because these reviews were initiated prior to the enactment of the URAA. Therefore, the Department properly determined the SES program to be countervailable.

Comment 2: Respondent argues that, if the Department continues to find the SES program countervailable, the Department should change the calculation methodology. Respondent alleges that the Department's decision to allocate the total value of all grants provided under the SES program in 1993 to that year was entirely arbitrary and contends that the Department should, instead, allocate those grants over the average useful life of assets in the industry.

Petitioner, on the other hand, argues that the Department properly expensed the benefits received in 1993 in the year of receipt in conformance with its prior practice.

Department's Position: The Department followed its practice, in accordance with the Proposed Regulations, of expensing non-recurring grants in the year of receipt when the sum of grants provided under a particular program is less than 0.50 percent of total sales in the year in which the grant was received. In this case, the amount of SES grants provided to greenhouse growers in 1993 was less than 0.50 percent of total greenhouse sales in that year. Therefore, under long-standing, established Department practice, these grants were expensed in the year of receipt, 1993. *See, e.g., Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Austria* (60 FR 33534, 33535; June 28, 1995).

Comment 3: Petitioner argues that the Department should reverse its determination that the reduced VAT rate and VAT rebates, applicable to purchases of mineral oils, fuels, or gas for greenhouses are not countervailable. Petitioner argues that the VAT reduction and rebates provide greenhouse growers with preferential gas prices and that these benefits are targeted to greenhouse growers and, therefore, are countervailable. Other reasons noted in support of its argument are that recipients must produce affidavits attesting that the gas is used only to heat greenhouses and that inspection programs ensure that the reduced rate only benefits greenhouse production. Petitioner further contends that, absent this program, flower growers would pay the higher VAT. Therefore, according to petitioner, the program is specifically targeted to greenhouse growers. In support of its arguments, petitioner cites *Bicycle Tires and Tubes from Taiwan,* 46 FR 53201 (October 28, 1981) (tax ceiling for bicycle manufactures); *Certain Steel Products from Belgium,* 58 FR 32273 (July 9, 1993) (exemptions for companies in development zone); *Certain Steel Products from Brazil* (58 FR 37295; July 9, 1993) (tax rebates to a specific industry); and *Certain Steel Products from Italy,* 58 FR 37327; July 9, 1993) (increased VAT deduction for a firm in a specific region).

Respondent disputes petitioner's argument that the special VAT regime is countervailable. Respondent argues that the special regime is available to the entire agricultural sector and that the administrative procedures that reduce the VAT on oil and natural gas are necessary to arrive at the reduced VAT level and rebates to which the recipients in the entire agricultural sector are entitled.

Department's Position: Section 771.5 of the Act and section 355.43(b)(1) of the *Proposed Regulations* require the Department to countervail a subsidy that is limited, in law, or in fact, to an enterprise or industry or group thereof. However, section 355.43(b)(8) provides that the Department ''will not regard a program as being specific, within the meaning of paragraph (b)(1) of this section, solely because the program is limited to the agricultural sector.'' (*See Proposed Regulations* at 23380.) In the final determination of the original investigation, the Department found that if a program is available to virtually all agriculture and is not limited to flower growers or otherwise limited to a specific enterprise or industry, or group of enterprises or industries, within agriculture, then the program is not countervailable. *See Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From the Netherlands* (52 FR 3303; February 3, 1987) (*Final Determination*). *See also, Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Lamb Meat from New Zealand* (50 FR 37708; September 17, 1985). In *Lamb Meat,* we found that the examined program was not limited to a specific enterprise or industry, or group thereof, because it was available to and used by a wide variety of agricultural producers.

In the preliminary results of these reviews, we found that under the Dutch National Tax Law, farmers in the Netherlands pay the reduced VAT rate on purchases of virtually all the goods and services required in agriculture, including natural gas and oil. The application procedure, noted by petitioner, for obtaining the reduced VAT rate and rebates is merely a mechanism which enables farmers to receive the reductions to which they are entitled under the Dutch National Tax Law.

The cases cited by petitioner in its brief are not relevant to the issue at hand. The issue in those cases dealt with benefits limited to specific industries or to specific zones or regions. The issue in these reviews is whether the reduced VAT rates are applied to virtually all of the goods and services used within the agricultural sector and whether there is any limitation within agriculture to provide benefits to specific commodities under this program. The issue is not whether the agricultural sector pays lower VAT rates on its purchases than the other industries in the Netherlands. We found that the reduced VAT rate is applied to a wide variety of goods in the agricultural sector; such as, foodstuffs, cereals, seeds, cattle, sheep, goats, pigs, horses, breeding eggs, veterinary medicines, water, gas and mineral oil, beetroot, agricultural seeds, fertilizer, feed, round wood, flax, wool, agricultural tools, bulbs and plants, as well as to services in the agricultural sector; such as, contracting, repairs, breeding, inspections, accounting, drying, cooling, cleaning and packaging of agricultural products. Therefore, since virtually all goods purchased by and required in the agricultural sector receive the reduced VAT rate, we determine that this program is not specific. As such, the reduced VAT rate for agriculture does not provide a countervailable benefit.

Comment 4: Petitioner argues that the Department understated the benefits derived from the SES program by allocating the grants received over estimated greenhouse sales, rather than floricultural sales. Petitioner claims that because the GON did not provide data regarding disbursements to flower growers or chrysanthemums growers, the Department must apply best information available.

Respondent, on the other hand, agrees with the Department's allocation methodology. Respondent argues that aid from the program is spread over the entire horticultural sector and is not specific to flowers or standard chrysanthemums.

Department's Position: Petitioner incorrectly asserts that the Department understated the benefits from the SES program. We are conducting this review on an aggregate basis due to the large number of growers of the subject merchandise. Therefore, we collected information on program usage from the government rather than from individual producers. The GON does not maintain records on the grants provided under this program on a product-specific basis. However, the grants under this program were provided to greenhouse growers, and we allocated the value of the grants over the value of greenhouse sales. Therefore, the Department has not understated the benefits under this program attributable to the subject merchandise.

Final Results of Reviews

For the period January 1, 1992 through December 31, 1992, we determine the net subsidy to be 0.43 percent *ad valorem*. For the period January 1, 1993 through December 31, 1993, we determine the net subsidy to be 0.80 percent *ad valorem*. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*.

The Department will instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise exported on or after January 1, 1992 and on or before December 31, 1992, and to assess countervailing duties of 0.80 percent *ad valorem* of the f.o.b. invoice price on all shipments of the subject merchandise exported on or after January 1, 1993 and on or before December 31, 1993.

Because this notice is being published concurrently with the final results of the 1994 administrative review, the 1994 administrative review will serve as the basis for setting the cash deposit rate, as provided for under section 751(c)(1) of the Act.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.43(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: August 30, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–23230 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–421–601]

Standard Chrysanthemums From the Netherlands; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On May 6, 1996, the Department of Commerce (the Department) published in the Federal Register (61 FR 20411) its preliminary results of administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands for the period January 1, 1994 through December 31, 1994. We have completed this review and determine the net subsidies to be *de minimis* for all exports of the subject merchandise to the United States. The Department will instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from the Netherlands exported on or after January 1, 1994, and on or before December 31, 1994.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Anne D'Alauro, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1996, the Department published in the Federal Register (61 FR 20406) the preliminary results of its administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands (*Preliminary Results*). We invited interested parties to comment on the preliminary results. The Floral Trade Council, petitioner, and the Government of the Netherlands (GON), respondent, submitted both case and rebuttal briefs. The Department has now completed this administrative review in accordance

with section 751 of the Tariff Act of 1930, as amended (the Act).

The period covered by the review was January 1, 1994 through December 31, 1994. This review was conducted on an aggregate basis and involves 13 programs.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). References to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments* (54 FR 23366; May 31, 1989) (Proposed Regulations), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by this review are shipments of Dutch standard chrysanthemums. Such merchandise is classifiable under item number 0603.10.70 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Country-Wide Rate

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. In the original investigation of this order, it was determined that there were over 8,000 flower growers in the Netherlands. Therefore, we requested that the GON provide information on an aggregate basis. *See Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From the Netherlands* (52 FR 3301; February 3, 1987). Consistent with the decision made in the investigation, administrative reviews of this order have been conducted on an aggregate basis. In accordance with section 777A(e)(2)(B) of the Act, we have also conducted this administrative review on an aggregate basis because of the large number of producers and exporters, and on the basis of the aggregate information submitted by the GON, we have determined a single country-wide subsidy rate to be applied to all producers and exporters of the subject merchandise.

Analysis of Programs

Based upon our analysis of the questionnaire responses and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Aids for the Creation of Cooperative Organizations

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is 0.03 percent *ad valorem* for 1994.

2. Glasshouse Enterprises Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is 0.05 percent *ad valorem* for 1994.

3. Aids for the Reduction of Glass Surface

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than 0.005 percent ad valorem for 1994.

4. Steam Drainage System

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than 0.005 percent ad valorem for 1994.

B. New Program Found to Confer Subsidies Stimulation for the Innovation of Electric Energy Program

In the preliminary results, we found that this program conferred benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to modify our findings from the preliminary results for this program. On this basis, the net subsidy for this program is 0.35 percent ad valorem for 1994.

II. Programs Found to be Not to Confer Subsidies

In the preliminary results, we found the following programs to be non-countervailable:

1. Arrangement for Stimulation of Innovation Projects
2. Arrangement for Structural Improvements and the Complementary Scheme for Investment in Agricultural Holdings
3. Natural Gas Provided at Preferential Rates
4. Income Tax Deduction
5. Value Added Tax (VAT) Reduction of 6 Percent for Natural Gas Users and Partial Restitution of VAT for Mineral Oils, Fuels, Bulk or Bottled Gas
6. Guarantee Fund for Agriculture

Our analysis of comments submitted by interested parties, summarized below, has not led us to modify our findings from the preliminary results.

III. Programs Found to be Not Used

We determine that producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

1. Investment Incentive (WIR)—Regional Program
2. Loans at preferential interest rates.

Analysis of Comments

Comment 1: Respondent contends that the Department improperly determined the Stimulation for the Innovation of Electric Energy (SES) program to be countervailable. Respondent states that the URAA exempts from countervailability assistance to promote adaptation of existing facilities to new environmental requirements.

Petitioner disagrees that there is a general exemption for subsidies which provide environmental benefits. Instead, the petitioner notes that Article 8(c) of the Agreement on Subsidies and Countervailing Measures lists certain non-actionable subsidies benefitting the environment and that one of the criteria necessary for the exemption is that the new environmental requirements are

imposed by law or regulation. Petitioner argues that the GON program encouraging the installation of cogeneration equipment is not pursuant to a new environmental requirement imposed by law or regulation.

Department's Position: We disagree with the respondent. While section 771(5B) of the Act does describe subsidies which are non-actionable if certain conditions are met, the GON has not provided any timely factual information to support its claim, which was raised for the first time in its May 28, 1995 case brief.

In our August 28, 1995 questionnaire, the Department provided the GON with the opportunity to claim ''green light'' status under section 771(5B) for eligible programs, and stated that the GON ''may also claim that certain subsidies for research activities, disadvantaged regions and/or the adaptation of existing facilities to new environmental requirements are not countervailable. If you wish to do so, then please notifiy the official in charge * * * '' (*see*, section II–3, page 2 of the Questionnaire). This request for parties to notify the Department if they wish to claim ''green light'' status has been a standard question in the Department's questionnaire since January 1, 1995, the effective date of the URAA. In its questionnaire response filed on October 20, 1995, the GON did not request ''green light'' consideration for any of its programs. Moreover, the GON did not provide any factual information which the Department could use to determine whether the SES program meets the criteria outlined in section 771(5B)(D) of the Act.

Since the GON raised this issue for the first time in its case brief, which is well past the deadline for submitting factual information in the review, and since no information supporting its claim otherwise exists on the record, the Department determines that the SES program does not qualify as a noncountervailable subsidy pursuant to section 771(5B) of the Act.

Comment 2: Petitioner argues that the Department should reverse its determination that the reduced VAT rate and VAT rebates, applicable to purchases of mineral oils, fuels, or gas for greenhouses are not countervailable. Petitioner argues that the VAT reduction and rebates provide greenhouse growers with preferential gas prices and that these benefits are targeted to greenhouse growers and are, therefore, countervailable. Other reasons noted in support of its argument are that recipients must produce affidavits attesting that the gas is used only to heat greenhouses and that inspection programs insure that the reduced rate only benefits greenhouse production. Petitioner further contends that absent this program flower growers would pay the higher VAT. Therefore, according to petitioner, the program is specifically targeted to greenhouse growers. In support of its arguments, petitioner cites *Bicycle Tires and Tubes from Taiwan*, 46 FR 53201 (October 28, 1981) (tax ceiling for bicycle manufacturers); *Certain Steel Products from Belgium*, 58 FR 32273 (July 9, 1993) (exemptions for companies in development zone); *Certain Steel Products from Brazil* (58 FR 37295; July 9, 1993) (tax rebates to a specific industry); and *Certain Steel Products from Italy*, 58 FR 37327; July 9, 1993) (increased VAT deduction for a firm in a specific region).

Respondent disputes petitioner's argument that the special VAT regime is countervailable. Respondent argues that the special regime is available to the entire agricultural sector and that the administrative procedures that reduce the VAT on oil and natural gas are necessary to arrive at the reduced VAT level and rebates to which the recipients in the entire agricultural sector are entitled.

Department's Position: Section 771.5 of the Act and section 355.43(b)(1) of the *Proposed Regulations* require the Department to countervail a subsidy that is limited, in law, or in fact, to an enterprise or industry or group thereof. However, section 355.43(b)(8) provides that the Department ''will not regard a program as being specific, within the meaning of paragraph (b)(1) of this section, solely because the program is limited to the agricultural sector.'' (*See Proposed Regulations* at page 23380.) In the final determination of this case, the Department found that if a program is available to and used by virtually all of agriculture and is not limited to flower growers or otherwise limited to a specific enterprise or industry, or group of enterprises or industries, within agriculture, then the program is not countervailable. *See Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From the Netherlands* (52 FR 3303; February 3, 1987) (*Final Determination*). *See also, Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Lamb Meat from New Zealand* (50 FR 37708; September 17, 1985). In *Lamb Meat*, we found that the examined program was not limited to a specific enterprise or industry, or group thereof, because it was available to and used by a wide variety of agricultural producers. In the preliminary results of this review, we found that under the Dutch National Tax Law, farmers in the Netherlands pay the reduced VAT rate on purchases of virtually all the goods and services required in agriculture, including natural gas and oil. The application procedure, noted by petitioner, for obtaining the reduced VAT rate and rebates is merely a mechanism which enables farmers to receive the reductions to which they are entitled under the Dutch National Tax Law.

The cases cited by petitioner in its brief are not relevant to the issue at hand. The issue in those cases dealt with benefits limited to specific industries or to specific zones or regions. The issue in this review is whether the reduced VAT rates are applied to virtually all of the goods and services used within the agricultural sector and whether there is any limitation within agriculture to provide benefits to specific commodities under this program. The issue is not whether the agricultural sector pays lower VAT rates on its purchases than the other industries in the Netherlands. We found that the reduced VAT rate is applied to a wide variety of goods in the agricultural sector; such as, foodstuffs, cereals, seeds, cattle, sheep, goats, pigs, horses, breeding eggs, veterinary medicines, water, gas and mineral oil, beetroot, agricultural seeds, fertilizer, feed, round wood, flax, wool, agricultural tools, bulbs and plants, as well as to services in the agricultural sector; such as, contracting, repairs, breeding, inspections, accounting, drying, cooling, cleaning and packaging of agricultural products. Therefore, since virtually all goods purchased by and required in the agricultural sector receive the reduced VAT rate, we determine that this program is not specific. As such, the reduced VAT rate for agriculture does not provide a countervailable benefit.

Comment 3: Petitioner argues that the Department understated the benefits derived from the SES program by allocating the grants received over estimated greenhouse sales, rather than floricultural sales. Petitioner claims that because the GON did not provide data regarding disbursements to flower growers or chrysanthemums growers, the Department must apply best information available.

Respondent, on the other hand, agrees with the Department's allocation methodology. Respondent argues that aid from the program is spread over the entire horticultural sector and is not specific to flowers or standard chrysanthemums.

Department's Position: Petitioner incorrectly asserts that the Department understated the benefits from the SES program. We are conducting this review

on an aggregate basis due to the large number of growers of the subject merchandise. Therefore, we collected information on program usage from the government rather than from individual producers. The GON does not maintain records on the grants provided under this program on a product-specific basis. However, the grants under this program were provided to greenhouse growers, and we allocated the grants over greenhouse sales. Therefore, the Department has not understated the benefits under this program attributable to the subject merchandise.

Comment 4: Petitioner argues that the Department should recalculate the 1994 subsidy flowing from the SES program. Petitioner contends that the amount calculated for the 1994 review was based on the grant amount reported in the original questionnaire response, which was smaller than the total amount reported in the supplemental response.

Department's Position: The Department used the correct amount in calculating the benefit for the review period, which was the amount reported in the original response. The amount reported in the supplemental response was actually the total amount of grants earmarked for the horticultural industry, while the actual amount of grants disbursed was what was reported in the original response. The Department's practice is to countervail the amount of grants actually provided, not the amount awarded. (*See* section 355.44(a) of the *Proposed Regulations.*)

Final Results of Review

In accordance with section 777A(e)(2)(B) of the Act, we calculated a country-wide rate to apply to all producers and exporters of the subject merchandise. For the period January 1, 1994 through December 31, 1994, we determine the net subsidy to be 0.43 percent *ad valorem*. As provided for in the Act, any rate less than 0.5 percent *ad valorem* is *de minimis.*

Accordingly, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise exported on or after January 1, 1994 and on or before December 31, 1994. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties of zero on all shipments of subject merchandise from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.43(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: August 30, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–23231 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 960801215–6215–01]

RIN 0693–XX22

Laboratory Accreditation Working Group: Proceedings of Open Forum

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of availability.

SUMMARY: A single copy of NIST Special Publication SP–902, ''Proceedings of the Open Forum on Laboratory Accreditation'' may be requested from the NIST Office of Standards Services. Multiple copies may be purchased from the Superintendent of Documents.

DATES: Request for a single copy will be honored by NIST until the supply is exhausted.

ADDRESSES: At NIST: Office of Standards Services, National Institute of Standards and Technology, Building 820, Room 282, Gaithersburg, Maryland 20899, telephone 301–975–4000, e-mail jbaker@nist.gov, or facsimile 301–963–2871. At Superintendent of Documents: P.O. Box 371954, Pittsburgh, PA 15250, telephone 202–512–1800.

FOR FURTHER INFORMATION CONTACT: Judith Baker, Office of Standards Services, National Institute of Standards and Technology, Building 820, Room 282, Gaithersburg, Maryland 20899, telephone 301–975–4000.

SUPPLEMENTARY INFORMATION: NIST SP–902, ''Proceedings of the Open Forum on Laboratory Accreditation'' includes presented papers and discussions at a meeting on the proposed development of a U.S. laboratory accreditation infrastructure, held at NIST on October 13, 1995.

The American National Standards Institute (ANSI) and ACIL (formerly American Council of Independent Laboratories) requested that the National Institute of Standards and Technology (NIST) work with them in an informal Laboratory Accreditation Working Group (LAWG) to evaluate the current situation in laboratory accreditation in the United States. This group sponsored a Forum on October 13, 1995, to hear reports from various sectors and to arrive at some consensus on the need to improve the current situation and infrastructure for laboratory accreditation in the United States. Sectors included laboratories, accreditors, manufacturers, government (both federal and states), standards organizations, and international trade experts.

In the Forum, reports from the different sectors focused on the need for agreement on common procedures, reduction of overlap and duplicate programs, and development of coordination among sectors. The invited speakers presented examples of the high price in both time and money, as well as in lack of domestic (and international) acceptance of accreditation, resulting from the multiple, often duplicative accreditation required by organizations in government and the private sector. Examples given by many of the speakers included:

—Multiple assessments of a single laboratory with similar testing protocols applied each time, increased total cost, and frequent conflicts among requirements;
—Programs tailored to narrow customer demands but lacking recognition by other bodies;
—Non-uniformity of requirements and lack of reciprocity among accreditors and those requiring accreditation;
—Failure to recognize U.S. accreditation in international trade; and
—Problems stemming from the need for compliance with regulatory programs without consideration of comparable private sector accreditation.

Keynote addresses provided:

—Historical review of prior efforts to streamline the laboratory accreditation infrastructure;
—An overview of the effect of failure to accept testing by accredited laboratories on commercial trade relations, especially limits on the free trade of products designed for acceptance in overseas markets due to lack of common procedures and mutual recognition agreements; and
—A description of procedures used by both the United Kingdom Accreditation Service (UKAS) and

European Council on Accreditation of Laboratories (EAL) organizations.

The LAWG Steering Group presented a ''Vision'' statement. This informal group consists of the three sponsoring organizations and representatives of each of the stakeholders: Laboratories, accreditors, and the government and private sector entities that require accreditation of laboratories for their own purposes. The Vision statement was intended to provide a philosophy for developing broad cooperation on accreditation procedures and infrastructure that would be much more effective than the present chaotic system and which would meet the needs of all those affected by laboratory accreditation. A set of ''Principles'' was also offered as a guide for developing a possible infrastructure. These principles include recognition of competent organizations that accredit laboratories, use of procedures and requirements based on international standards and guides, elimination of domestic barriers, and improved access to foreign markets for U.S. products.

Throughout the Forum, speakers supported the opportunity to achieve a coordinated, cost effective system for unified procedures for determining the competency of laboratories by qualified accreditors.

Dated: September 15, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–23188 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Transshipment and Misclassification Charges for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

September 5, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging transshipments and misclassified merchandise to 1996 limits.

EFFECTIVE DATE: September 11, 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).

In a notice published in the Federal Register on May 3, 1995 (60 FR 21792), CITA announced that Customs would be conducting other investigations of transshipments of textiles produced in China and exported to the United States. Based on these investigations, the U.S. Customs Service has determined that textile products in certain categories, produced or manufactured in China and entered into the United States with the incorrect country of origin or with the incorrect classification, were entered in circumvention of the Bilateral Textile Agreement, effected by exchange of notes dated March 29, 1995 and June 8, 1995, between the Governments of the United States and the People's Republic of China. Consultations were held between the Governments of the United States and the People's Republic of China on this matter March 25 through March 27, 1996. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the following amounts to the 1996 quota levels for the categories listed below. The quota levels for Categories 339–S, 348, 351, 641 and 840 have been triple charged in accordance with paragraph 13(E) of the Bilateral Textile Agreement between the Governments of the United States and the People's Republic of China.

Category	Amounts to be charged
200	2,268 kilograms.
335	136 dozen.
338–S [1]	73,420 dozen.
339	16,983 dozen.
339–S [2]	5,120 dozen.
347	19,360 dozen.
348	37,699 dozen.
351	18,000 dozen.
369–D [3]	15,511 kilograms.
369–S [4]	116,250 kilograms.
433	520 dozen.
641	22,680 dozen.
840	1,083 dozen.

[1] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023.

[2] Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–S: only HTS number 6307.10.2005.

U.S. Customs continues to conduct other investigations of such transshipments of textiles produced in China and exported to the United States. The charges resulting from these investigations will be published in the Federal Register.

The U.S. Government is taking this action pursuant to U.S. letter dated February 6, 1996, and the Bilateral Textile Agreement, effected by exchange of notes dated May 29, 1995 and June 8, 1995, between the Governments of the United States and the People's Republic of China.

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 65292, published on December 19, 1995.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 5, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Bilateral Textile Agreement, effected by exchange of notes dated May 29, 1995 and June 8, 1995, between the Governments of the United States and the People's Republic of China, I request that, effective on September 11, 1996, you charge the following amounts to the following categories for the 1996 restraint period (see directive dated December 13, 1995):

Category	Amounts to be charged
200	2,268 kilograms.
335	136 dozen.
338–S [a]	73,420 dozen.
339	16,983 dozen.
339–S [b]	5,120 dozen.
347	19,360 dozen.
348	37,699 dozen.
351	18,000 dozen.
369–D [c]	15,511 kilograms.
433	520 dozen.
641	22,680 dozen.
840	1,083 dozen.

[a] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023.

[b] Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[c] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

Also, you are directed to deduct 116,250 kilograms from the charges made to Category 369–D for the 1996 quota period. This same

amount should be charged to the 1996 limit for Category 369–S [1].

This letter will be published in the Federal Register.

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–23054 Filed 9–10–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Monday, September 30, 1996.

PLACE: 1155 21st St., NW., Washington, DC, 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–23387 Filed 9–9–96; 12:34 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Monday, September 30, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–23388 Filed 9–9–96; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Public Meeting

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (the Corporation) announces the convening of a meeting to be held on September 19, 1996, at 11:00 a.m. in the Corporation's Washington Office. Members of the public are invited to participate.

The purpose of this meeting is to provide information regarding the following initiatives: (1) the new AmeriCorps Education Awards Program; (2) the new National Service Scholarship Program.

DATES: The meeting will be held on September 19, from 11:00 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held at the Corporation for National Service, 1201 New York Avenue, NW, 8th Floor, Room 8410, Washington, DC 20525. Please RSVP to (202) 606–5000 ext. 260.

FOR FURTHER INFORMATION CONTACT: For further information, contact Rhonda Taylor, Associate Director of Special Projects and Initiatives, Corporation for National Service at (202) 606–5000, ext. 282. TTD Number: (202) 606–5256. This notice may be requested in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION: The Corporation is a federal government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's educational, public safety, human, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

The Corporation seeks to expand opportunities for individuals to serve as AmeriCorps Members and earn educational benefits, broaden the network of national service programs and strategies, and increase the number of communities joining with AmeriCorps to better meet their needs. Accordingly, the Corporation announced the availability of up to 5,000 education awards from the National Service Trust through a simplified application process for community service programs that can support all or most other program and Member support costs through other sources of funding. The education awards being made available may be earned by AmeriCorps Members successfully completing Full-time or Part-time terms in a community service program approved through the application process. Additional information about this program is contained in the Corporation's Notice of Availability of Educational Awards in the Federal Register of Wednesday, September 4, 1996.

The National Service Scholarship Program was created to recognize high school juniors and seniors engaged in outstanding community service. Students selected for recognition will receive locally-funded scholarships, matched or supplemented with federal funds provided by the Corporation. Of the National Service Scholars, a small number selected at the State level will receive special recognition and larger scholarships, and an even smaller number selected at the national level will receive special recognition and still larger scholarships. The Corporation's goal in this effort is to highlight the outstanding community service performed by high school students across the country, to recognize the particularly noteworthy service accomplishments of outstanding young individuals, and to assist those individuals in pursuing higher education. In order to accomplish this, the Corporation is interested in selecting an organization to provide administrative and technical support related to this program. Additional information about this program is contained in the Corporation's Notice of Availability of Funds in the Federal Register of Wednesday, September 4, 1996.

Dated: September 3, 1996.

Barry W. Stevens,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 96–23079 Filed 9–10–96; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[FAR Case 95–307]

Submission for OMB Review Entitled Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR)

[1] Category 369–S: only HTS number 6307.10.2005.

Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification (FAR case 95–307). This request is pursuant to the emergency processing provisions of the Paperwork Reduction Act of 1995 (Public Law 104–13).

DATES: *Comment Due Date:* November 12, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4035, Washington, DC 20405. Please cite FAR case 95–307, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Shari Kiser, Federal Acquisition Policy Division, GSA (202) 501–2164.

SUPPLEMENTARY INFORMATION:

A. Purpose

The interim rule amends the Federal Acquisition Regulation to implement changes in the numbering system used by the Government to identify contractors in reporting to the Federal Procurement Data System. The rule substitutes the Data Universal Numbering System (DUNS) number for the current Contractor Establishment Code.

Concerns have been raised that the same numbering system should be used for reporting to the Federal Procurement Data System (FPDS) and identifying vendors in the FACNET vendor registration database. The Office of Federal Procurement Policy has determined that the DUNS number will be used for Federal Procurement Data System reporting purposes and to identify vendors in the FACNET vendor registration database. Beginning with FY 1996 first quarter submissions to the Federal Procurement Data Center, agencies may report the DUNS number.

The Federal Procurement Data System (FPDS) provides a comprehensive mechanism for assembling, organizing, and presenting contract placement data for the Federal Government. Federal agencies report data to the Federal Procurement Data Center which collects, processes, and disseminates official statistical data on Federal contracting. The Data Universal Numbering System (DUNS) number is replacing the current Contractor Establishment Code as the primary contractor identification number used to identify contractors in the Federal Procurement Data System. Changes to the FPDS reporting requirements are currently in process to conform to the requirements of Section 10004 of the Federal Acquisition Streamlining Act.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *5 minutes* per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents *50,400*; responses per respondent, *4*; total annual responses, *201,600*; preparation hours per response, *.0166* hours; and total response burden hours, *4,147*.

Obtaining Copies of Justifications: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVR), Room 4035, Washington, DC 20405, telephone (202) 501–2164. Please cite FAR case 95–307, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, in all correspondence.

Dated: September 5, 1996.

Shari Kiser,

FAR Secretariat.

[FR Doc. 96–23170 Filed 9–10–96; 8:45 am]

BILLING CODE 6820–EP–P

Department of the Army

Military Traffic Management Command; Security Rules and Accessorial Service Governing the Movement of Department of Defense Freight Traffic by Rail Carrier

AGENCY: Military Traffic Management Command (MTMC), DoD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command is proposing to change Items 85, 95, 100, and 180 in the Military Traffic Management Command Freight Traffic Rules Publication 10 (MFTRP 10). This proposed change combines two existing transportation protective services into a new service. Also, the change clarifies where and under what circumstances Arms, Ammunition and Explosives, Tanks, Wheeled Vehicles, and other Sensitive Items are protected while being shipped by rail.

DATES: Comments must be submitted on or before November 15, 1996.

ADDRESSES: All comments concerning the proposed change should be addressed to Headquarters, Military Traffic Management Command, ATTN: MTOP–T, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gerade, e-mail geradem@baileys-emh5.army.mil or Mr. Robert Jones, jonesr@baileys-emh5.army.mil, Headquarters, Military Traffic Management Command, ATTN: MTOP–OP, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone (703) 681–6109/6089.

SUPPLEMENTARY INFORMATION: The proposed changes read as follows:

Item 85—Application

1. The Transportation Protective Service (TPS) set forth in this section apply to rail carriers offering to transport military arms; Division 1.1, 1.2, and 1.3, ammunition, explosives, fireworks, chemical munitions, and other commodities which may require physical security protection while in transit.

2. When this service is required on shipments moving in TOFC/COFC service, rail carriers will insure the appropriate motor TPS applicable to the highway portion incident to the TOFC/COFC movement is provided. The motor TPS is set forth in Section 2 of Motor Freight Rules Publication No. 1A (MFTRP No. 1A). Only MTMC approved munitions motor carriers may be used to transport shipments over the highway.

3. Carriers which provide TPS without charge will enter on the Tender in Section F(2) two-character alpha code for this service in the ''service'' field and place zeros in the ''charge'' column. This will indicate that the service is offered without charge.

4. To simplify tender filing procedures, carriers may file one tender containing charges applicable to the TPS named in this section.

Item 95—Rail Armed Guard Service (RG) (Note)

1. *Definition.* Rail Armed Guard Service (RG). RG is a transportation protective service that provides one armed guard to maintain constant and specific 24 hour surveillance on a DOD shipment consisting of one or more cars in the same train.

2. *Requirement.* Carriers providing RG must:

a. Perform all functions of Rail Inspection Service (RI) as specified in item 100.

b. Maintain surveillance at all rail stops as well as in yards and terminals where train stops. All security seals and/or locks will be checked at all stops shown in **NOTE** of this item.

c. Guards will be augmented as required to maintain continuous observation on railcars transporting shipment(s).

d. Guards will not leave shipment until properly relieved by another guard or consignee at destination.

e. On shipments in environmentally controlled cars, trailers or containers, the refrigeration/heating units must be inspected in transit at least twice during each 24-hour period for the purpose of maintaining temperature requirements. Inspections must be at least 10 hours apart. The temperature requirement of each shipment will be annotated on the bill of lading by the shipper. Immediately following each required inspection, an authorized carrier representative will make a report by telephone to the consignee and the appropriate toll free 800-Hotline telephone number (see Item 180), furnishing the information called for in the sample format shown in **NOTE** of this item. The cost of telephone calls to other than toll free numbers will not be borne by the Government.

f. Annotation. RG will only be furnished upon request of the shipper by annotation on the bill of lading as follows:

''Rail Armed Guard Surveillance Service (RG) Requested''

g. If suspicion of tampering or sabotage exists at any point during the movement of the shipment, the railroad special agents office will immediately notify the consignee, HQMTMC at (703)681–6125, or one of the 24-hour MTMC 800-Hoteline telephone numbers (See ITEM 180). If necessary, the carrier will solicit the aid of local, state or federal law enforcement officials to secure the shipment.

3. *Charges.* When requested by the shipper, the rail carrier(s) will provide RG on shipments of single car loads or shipments of multiple car loads in the same train at a charge of RG(1) $_____ per highway mile or in lieu thereof a flat charge of RG(2) $_____ per car. The charges will apply from point of origin to point of destination, and will be in addition to all other charges for transportation of shipments requiring this service.

In Section F(1) of the tender, carriers will complete either RG(1) or RG (2), but not both.

Note: Information to be furnished per instructions in paragraph 2e above:

1. Person and carrier reporting:

_____

2. City or place of inspection:

_____

3. Local arrival time at checkpoint:

_____

4. Local time inspection was performed:

_____

5. Interior temperature of the equipment:

_____

6. Approximate outside temperature:

_____

7. Government seals intact: Yes ( ) No ( )

_____

8. Replaced by seal number:

_____

9. Air conditioning unit working: Yes ( ) No ( )

_____

10. Arrangement made for repair:

_____

11. Entries made on log attached to equipment: Yes ( ) No ( )

_____

12. Estimated or actual time or departure from checkpoint:

_____

13. Estimated time of arrival at next checkpoint or destination:

_____

Item 100—Rail Inspection Service (RI) (Notes 1 through 8)

Rail Inspection Service (RI) replaces two rail security services, Rail Surveillance Service (RS) and Tank Surveillance Service (TS). Greater Security Service (GS), as defined in item 90, will still be maintained for all other shipments under RI service. GS automatically includes Military Traffic Expediting Service (MTX) (See Note 5). It is intended that RI service incorporate the inspection and/or surveillance requirements of each of the services RI replaced.

1. *Definition.* Rial Inspection Service (RI) is performed by rail carriers for in-transit protection of sensitive and pilferable items; RI automatically includes MTX (See Note 5). Inspection under RI is external only to assure the integrity of the shipment (container or vehicle) and the seals/locking devices. RI is required for the movement of Abrams tanks, and other ground vehicles with sensitive armor Categories II through IV, and uncategorized (at DOD component headquarters direction); arms, ammunition, and explosives (AA&E); and night vision devices (NVD). RI is optional for vehicle movements and unit or other movements involving pilferable items, such as high value communications and electronics.

2. *Requirements.* Carriers providing RI must:

a. For all Shipments Under RI:

(1) Perform Military Traffic Expediting Service (MTX) (NOTE 5).

(2) Annotation. RI will only be furnished upon request of the shipper by annotation on the bill of lading as follows:

''Rail Inspection Service (RI) Requested.''

(3) Inspect each rail car containing shipments requiring RI. Inspection will be performed by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained) which could be contract security firms designated by the carrier within one hour after train has entered a rail terminal. Reinspection will take place every hour thereafter until the train departs (NOTE 3). For shipments located at a working terminal, where carrier personnel are present and can provide continuous observation, hourly inspections are waived provided the train is on an inside track. When hourly inspections are performed, they will be documented.

(4) Inspection records will be required at terminals on arrival and departure and at all interchange points between railroads.

(5) Inspection made by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms, will be available within 24 hours.

(6) While in-transit and not in terminal, railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms designated by the carrier will inspect the railcar(s) containing the shipment every hour when a delay is more than 90 minutes.

(7) Assure complete interchange security procedures are in effect, and recorded when transferring the shipment to another railroad, or intermodal carrier, or with the government (NOTE 6).

(8) Where feasible, place shipments transiting rail yards in well-lighted areas, on an inside track, near the tower, and/or otherwise under the general observation of railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms designated by carrier (NOTE 1).

(9) Notify the consignee in a timely manner of arrival at destination and maintain inspection until physical hand-off has occurred (NOTES 2 and 4).

(a) Name of carrier reporting.

(b) Name of Inspector and his/her signature.

(c) Time of each inspection or acceptance for continuous observation.

(d) Actual arrival time at terminal.

(e) Actual departure time from terminal.

(f) Condition of conveyance(s) and seals/locking devices.

b. For Arms, Ammunition, and Explosives (AA&E), and containerized Night Vision Device (ND):

(1) Inspection of container locks/seals. If found broken, reseal with same or equivalent device. Report broken locks/seals, or other security problems with containers to one of the 24-hour MTMC 800-Hotline numbers listed in item 180, page 8.

(2) Ensure containers are positioned door to door or otherwise placed with door inaccessiable.

(3) If an add number of containers/MILVANs, other than one, is loaded on an individual rail car, loading is ''door to door'' and the remaining container is loaded with the door facing the end of another container/MILVAN.

c. For M1 Abrams Tanks:

(1) Inspection calls for external observation and inspection by railroad police officer, railroad employees (trained) other than policy, or instructed personnel (trained), which could be contract security firms, of each vehicle within one hour after it has stopped and at least once each hour during each stop. Documentation supporting hourly checks is subject to review.

(2) In addition to the requirements in paragraph 2a above, the following inspections will be performed by the carrier to ensure the integrity of the shipment and will be conducted from the ground unless exceptions are noted.

(a) Ensure tank armor plate, tie downs, or other parts are secure and intact.

(b) Ensure tank skirts and transloc bolts are secure and undamaged.

(c) Inspect vehicle openings (drivers, hatch, loading hatch) to ensure they are adequately secured (locked and sealed, or welded).

(d) Inspect equipment boxes to ensure exterior integrity of the boxes and that seals/locking devices and tie downs are intact.

(3) If the armor is penetrated, the shipment will continue to be protected by the carrier in conjunction with an on-the-scene investigation by military representatives.

(4) A diagram of the M1 Abrams Tank is found at the end of this section and depicts those areas of the vehicle that railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms, will concentrate their physical inspection.

d. For Non-Sensitive Armored/Wheeled Vehicle Inspections (Optional):

(1) This service may be used at the shipper's option for the movement of armored and wheeled vehicles (excluding the M1 Abrams Tank family of vehicles and certain ground vehicles tracked with sensitive armor, for which RI is mandatory. Inspection calls for the external observation and inspection by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms of each railcar transporting military vehicles, IAW paragraph a above.

(2) The following inspections will be performed by the carrier to ensure the integrity of the shipment and will be conducted from the ground unless exceptions are noted.

(a) Inspect wheeled vehicles for glass damage and all vehicles for signs of pilferage, theft, or serious damage.

(b) Ensure tie downs are secure and intact.

(c) Inspect vehicle openings of tanks and tactical vehicles (driver's hatch, loading hatch) to ensure they are adequately secured (locked, and sealed, or welded).

(d) Sensitive or pilferable items shipped along with thanks and other tracked vehicles should be in separate, approved containers. The shipper is responsible for securing a vehicle's opening and all containers. The seals/locking devices will be inspected by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms, to ensure that they are adequately secured.

3. *Reporting Procedures.*

a. The shipper must report shipment information to the appropriate MTMC area command in advance of movement and must include the GS or RI number on GBL. MTMC area commands will be responsible for furnishing this information to Manager, Military Transportation Section, AAR, at (703) 681–6117 in a timely manner.

b. In the event of any serious accident or incident, suspected or actual tampering and if the carrier believes a threat exists, the carrier will immediately notify the consignee and MTMC on one of the twenty-four hour MTMC 800–Hotline numbers provided below. If necessary the carrier will solicit the aid of local state or federal law enforcement officials to secure the shipment. Notification will also be furnished to the Manager, Military Transportation Section, AAR, at (703) 681–6117. Damage reporting of serious accidents or incidents will be reported within two hours following occurrence (NOTE 2 and 4).

c. If evidence of forced entry or tampering with seals has occurred, the carriers will immediately notify the consignee and MTMC 800-Hotline numbers listed below.

4. *Charges.* In addition to all rates and charges for transportation, shipment of:

a. Arms, Ammunition and Explosives (AA&E) and containerized Night Vision Devices (NVD) for which RI is provided by carrier at shipper's request will be subject to a charge of RI(1) $_____ per highway mile per car or in lieu thereof a flat charge of RI(2) $_____ per car.

b. M1 Abrams Tanks for which RI is provided by carrier at shipper's request will be subject to a charge of RI(3) $_____ per highway mile per car or in lieu thereof a flat charge of RI(4) $_____ per car.

c. Non-Sensitive Armored/Wheeled Vehicle Inspections (Optional) for which RI is provided by carrier at shipper's request will be subject to a charge of RI(5) $_____ per highway mile per car or in lieu thereof a flat charge of RI(6) $_____ per car.

Note 1: Lighting illuminating the railcar(s) containing the military shipment is beneficial for supporting inspections and should be used when feasible.

Note 2: Timely is defined in terms of immediate notification of delivery and advising the government not later than two hours after a serious accident or incident.

Note 3: Inspectors should be a railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firms designated by the carrier to inspect the railcar(s).

[A person is considered ''trained and instructed'' when he or she is employed by the railroad or the terminal involved in the handling of shipments, has been trained by the railroad/terminal to inspect railcar(s), is aware of the sensitivity of material moving under RI, and knowledgeable of safety, security and emergency procedures that must be followed. Trained and instructed contract personnel may be used to conduct inspection of railcar(s), but must meet the same criteria as personnel designated by the carrier to inspect railcar(s).]

Note 4: Damage reporting is required for any serious accident or incident.

Note 5: MTX is an expediting service provided by the Association of American Railroads (AAR) for military carload shipments. This automated service uses a central computer file electronically linked with member railroads and is capable of reporting on single line and joint-line movements. Passing or progress reports are controlled by an MTX number assigned by the Area Command.

Note. 6: Interchange procedures between railroads, intermodal carriers, and with the government are vital to ensure continuity of security. Where needed, complete formal

Memorandum of Agreement between parties to ensure continuous protection is provided.

Note 7: For performance of RG, it may be more advantageous in some circumstances to have a railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could be contract security firm personnel, ride in a separate motor vehicle paralleling the train, rather than on the train. The railroad has the opinion to decide which is more secure.

Note 8: When carrier has identified areas, which are known trouble spots, shipments will be routed to avoid these areas or, if unavoidable, be expedited through these areas.

Item 180—MTMC Emergency Notification Numbers

1. The following toll-free (800) MTMC Hotline telephone numbers are for commercial transportation notification only. These numbers are to be used for reporting:

a. The holding of DOD shipments that cannot be delivered because the shipper or consignee cannot be adequately identified (astray freight).

b. In-transit serious accidents, incidents, delays or other emergencies involving DOD shipments.

2. Carriers located within the geographical jurisdiction of MTMC Easter Area Command shall telephone the following toll-free numbers to report:

Accidents, Incidents, Delays, or Other Emergencies—(800) 524–0331.

3. Carriers located within the geographical jurisdiction of MTMC Western Area Command shall telephone the following toll-free numbers to report:

Accidents, Incidents, Delays, or Other Emergencies—(800) 435–4566.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–23171 Filed 9–10–96; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Randleman Lake, Guilford and Randolph Counties, NC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Piedmont Triad Regional Water Authority (PTRWA) has applied for a Department of the Army permit to discharge fill material for the construction of a dam to impound water to form Randleman Lake. The dam would be about 15 miles south of the city of Greensboro, North Carolina, and would be located on the Deep River, a tributary of the Cape Fear River. Projected regional water demands indicate that existing water supplies are inadequate for future needs and that water shortages will occur shortly after the year 2000. The proposed lake would meet the projected water supply needs of the PTRWA member governments for approximately 50 years.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mr. John C. Meshaw, Environmental Resources Section; or Mr. E. David Franklin, Regulatory Branch, both at the U.S. Army Engineer District, Wilmington, Post Office Box 1890, Wilmington, North Carolina 28402–1890; telephone: (910) 251–4175 or (910) 251–4952, respectively.

SUPPLEMENTARY INFORMATION: Construction of the dam for Randleman Lake will require a permit pursuant to Section 404 of the Clean Water Act, as amended, for the discharge of dredged or fill material into waters of the United States and their contiguous wetlands. The project would inundate 121 acres of jurisdictional wetlands and approximately 28 miles of rivers and streams.

1. The proposed 6,000-acre project would consist of a 3,000-acre lake and a 3,000-acre perimeter buffer strip. Randleman Lake would be constructed at the same dam site and conservation pool elevation which was authorized by the U.S. Congress in 1968 for the proposed Federal Randleman Lake multipurpose reservoir. Three major aspects of the currently proposed project which are different from the previously proposed Federal project include the following:

a. The project purpose is water supply only, not multipurpose.

b. Land requirements total approximately 6,000 acres rather than 10,000 acres.

c. Treated wastewater from the Highpoint Eastside Wastewater Treatment Plant would be released directly into the upstream portion of the lake rather than discharging through a sewer bypass to a point downstream from Randleman dam.

2. Alternatives to the proposed project include other water supply reservoirs, purchase of water from other municipalities, development of groundwater wells, water conservation, a combination of groundwater wells with a smaller reservoir, and no action. Other reservoir sites considered include Upper Deep River Lake, Altamahaw Lake, and a combination of two smaller sites at Benaja Lake and Polecat Creek Lake.

3. Public and agency review and input for the proposed project have been ongoing since 1988. An environmental impact statement (EIS) was prepared by the State of North Carolina in order to satisfy the requirements of the North Carolina Environmental Policy Act and North Carolina General Statutes 162A–7 and 153–285 concerning the use of the power of eminent domain and the interbasin transfer of water. The State's Draft EIS was circulated for review in July 1989; a public hearing was conducted on February 6, 1991; and the State's Final EIS was published on October 23, 1991. Subsequently, issues and concerns were discussed at an interagency scoping meeting conducted January 22, 1992, and at a meeting with the Deep River Citizens Association on February 25, 1992.

a. The public involvement program will continue through public announcements, letters, report review periods, telephone conversations, and meetings. All private interests and Federal, State, and local agencies having an interest in the project are hereby notified that their participation is invited.

b. The significant issues to be addressed in the DEIS are the impacts of the project on wetlands, hydrology, water quality, aquatic resources, fish and wildlife habitat, cultural resources, transportation, and the social and economic conditions of the project area.

c. The lead agency for this project is the U.S. Army Engineer District, Wilmington. Cooperating agency status has not been assigned to, nor requested by, any other agency.

d. The DEIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended, and will address the project's relationship to all other applicable Federal and State laws and Executive Orders.

4. No formal scoping meetings are planned at this time, but based on the responses received, meetings may be held with specific agencies or individuals as required.

5. The Draft EIS is currently scheduled for distribution to the public in fall 1996.

Dated: August 27, 1996.

Terry R. Youngbluth,

Lieutenant Colonel, U.S. Army District Engineer.

[FR Doc. 96–23172 Filed 9–10–96; 8:45 am]

BILLING CODE 3710–GN–M

Corps of Engineers

Inland Waterways Users Board

AGENCY: Corps of Engineers, Army Department, DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act, Public Law (92–463) announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on 8 October 1996 at the Edgewater Hotel in Seattle, Washington (Tel. 206–443–4300 or 800–426–9280). Registration will begin at 12:30 PM and the meeting is scheduled to adjourn at 5:00 PM. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. Norma T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW–PD, Washington, DC 20314–1000.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–23174 Filed 9–10–96; 8:45 am]

BILLING CODE 3710–92–M

Department of the Navy

Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Construction of a Replacement Outfall for the Wastewater Treatment Plant at Fort Kamehameha, Pearl Harbor, Oahu, Hawaii

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the proposed construction of a replacement outfall for the existing wastewater treatment plant (WWTP) at Fort Kamehameha, Pearl Harbor, Oahu, Hawaii.

The action covered by the EIS is replacement of the existing outfall, which discharges into the entrance channel of a Class 2 inland estuary, with a multiport deep ocean outfall which will discharge into Class A open coastal marine waters. The proposed outfall will reduce nutrient mass loading on the Pearl Harbor estuary. The proposed action is consistent with the State of Hawaii's management plan for the Pearl Harbor estuary, pursuant to Section 304(1) of the Clean Water Act. The EIS will analyze reasonable alternatives for disposal of secondary treated effluent and will assess their direct and cumulative environmental impacts.

Navy will initiate a scoping process to identify significant issues for study in the EIS and to identify and notify parties interested in and affected by the proposed action. It is important that interested agencies, individuals, and organizations take this opportunity to identify environmental concerns and feasible alternatives that should be addressed in the EIS. Public scoping meetings will be held on 1 and 2 October 1996, during which oral comments may be presented. To allow all views to be shared, each speaker will be asked to limit comments to five minutes.

Interested parties are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public meetings. Scoping comments should clearly describe specific issues or topics that the EIS should address. The scoping period for receipt of comments will end on 18 October 1996.

DATES/LOCATIONS: Two public scoping meetings will be held on Oahu: (1) Honolulu, Oahu: October 1, 1996, 7:00 - 10:00 pm, Washington Intermediate School, 1633 South King Street, and (2) Pearl Harbor, Oahu: October 2, 1996, 7:00 - 10:00 pm, Makalapa Elementary School, 4435 Salt Lake Boulevard.

FOR FURTHER INFORMATION CONTACT: Written statements and/or questions regarding the scoping process should be mailed no later than October 18, 1996 to Mr. Melvin Kaku (Code 23), Pacific Division, Naval Facilities Engineering, Pearl Harbor, HI 96860, telephone (808) 471–9338; fax (808) 474–4890.

SUPPLEMENTARY INFORMATION: The proposed action consists of constructing a 12,000-foot long, 42-inch diameter wastewater outfall extension, which will discharge through a multiport diffuser at a water depth of between 70 and 150 feet.

Construction activities include excavating an underwater trench across the shallow offshore limestone reef and in the Pearl Harbor entrance channel, installing pipe in the trench, and covering pipe with protective material. Construction equipment and supplies will be staged in the immediate vicinity of the treatment plant. Construction on the reef will require installation of a temporary earthen berm for equipment access; the berm will be removed after pipe installation. Construction in the channel will be carried out from one or more barges. Approximately 30,000 cubic yards of excavated material will be disposed at an approved offshore dredged material discharge site. Outfall piping will be assembled on land and floated to the outfall alignment. Piping in the trench will be supported by gravel beds and capped with concrete mats or tremie concrete. In shallow water, the top of the protective concrete mats will be approximately even with or just below the existing bottom contour. In deep water, the protective layer will be one meter below the design maintenance dredge depth. Construction activities will occur over a period of approximately 18 months. The existing outfall will be retained for emergency operations.

Alternatives to be evaluated include (1) no action, (2) several outfall alignments with variations of construction methodology, dredged material disposal, and diffuser depth and length, and (3) upland disposal of wastewater effluent, either by reuse or disposal through underground injection wells. The alternative outfall alignments all exit the existing WWTP discharge pump station and terminate at a depth of between 70 and 150 feet; they differ in the locations at which they cross the shoreline reef flat and enter deeper water. Construction method options include use of barges, use of a temporary berm across the reef flat, and possibly directional drilling. Dredged materials may be used to construct a temporary berm, disposed at the existing approved offshore disposal site, or disposed at an undetermined upland location. The upland disposal/reuse alternative for wastewater consists of constructing infrastructure to further treat WWTP effluent and redirect it to an undetermined upland site. The upland/underground injection alternative consists of constructing underground injection wells at suitable locations for effluent disposal.

Environmental issues to be addressed will include, but not be limited to, effects on surface and ground water quality, terrestrial and aquatic habitats, threatened or endangered species, cultural resources, infrastructure, traffic, noise and the socioeconomic environment. Direct, indirect, and cumulative impacts will be analyzed, and mitigation measures will be developed as required. Related regulatory processes will include a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act (CWA), a Department of the Army permit under Section 404 of the CWA, and a Section 401 Water Quality Certification by the State of Hawaii Department of Health.

Dated: September 6, 1996.

D.E. Koenig,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–23198 Filed 9–10–96; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

The Delaware River Basin Commission will hold a special 35th Anniversary meeting on Thursday, September 19, 1996 beginning at 11:00 a.m. in the Concert Hall located in the Independence Seaport Museum at 211 South Columbus Boulevard and Walnut Street, Penn's Landing, Philadelphia, Pennsylvania. The meeting, which is open to the public, will commemorate the Commission's 35th year under the interstate-federal Delaware River Basin Compact.

Following a luncheon recess, the meeting will reconvene at 2:30 p.m. at the same location and will include the following subjects for public hearing:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Palmer Water Company D–81–24 CP RENEWAL 3.* Application for the renewal of a ground water withdrawal project to supply up to 35 million gallons (mg)/30 days of water to the applicant's distribution system for Well Nos. 4, 6, 7, Foundry Well and Well A. Commission approval on May 22, 1991 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 35 mg/30 days. The project is located in Palmerton Borough, Carbon County, Pennsylvania.

2. *Broad Run Valley, Inc. D–85–27 CP RENEWAL 2.* All application for the renewal of a ground water withdrawal project to supply up to 24 mg/30 days of water to the applicant's Wilkinson Farm water supply project from Well No. W–3. Commission approval on June 19, 1991 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 24 mg/30 days. The project is located in New Garden Township, Chester County, Pennsylvania.

3. *Woodloch Pines, Inc. D–89–57 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 9 mg/30 days of water to the applicant's potable distribution system and golf course irrigation system from Well Nos. 5, 6 and 9. Commission approval on August 8, 1990 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 9 mg/30 days. The project is located in Lackawaxen Township, Pike County, Pennsylvania.

4. *Evesham Municipal Utilities Authority D–93–38 CP.* An application for approval of a ground water withdrawal project to supply up to 29 mg/30 days of water to the applicant's distribution system from new Well No. 13 screened in the Mt. Laurel Aquifer, and to increase the existing withdrawal limit of 136 mg/30 days from all wells to 149 mg/30 days. The project is located in Evesham Township, Burlington County, New Jersey.

5. *Resorts USA, Inc. D–94–28–CP.* An application for approval of a ground water withdrawal project to supply up to 1.73 mg/30 days of water to the applicant's Country Club of the Poconos at Big Ridge distribution system from new Well No. 2, and to retain the existing withdrawal limit from all wells of 3.7 mg/30 days. The project is located in Middle Smithfield Township, Monroe County, Pennsylvania.

6. *Warwick Township Water and Sewer Authority D–94–72 CP.* An application for the approval of a ground water withdrawal project to supply up to 5.0 mg/30 days of water to the applicant's distribution system to serve the proposed Country Crossing residential development and the High Pointe industrial complex from new Well Nos. 9, 10 and 11. The applicant requests that the total withdrawals from all wells remain limited to 22.0 mg/30 days. The project is located in Warwick Township, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

7. *Mantua Township Municipal Utilities Authority D–95–36 CP.* An application for an increased withdrawal of water from previously approved Well Nos. 2 through 8 in the applicant's water supply system. The applicant requests that the withdrawal from Well Nos. 2 through 8 be increased from 37 mg/30 days to 47 mg/30 days. The project is located in Mantua Township, Gloucester County, New Jersey.

8. *Borough of Clayton D–95–45 CP.* An application for approval of a ground water withdrawal project to supply up to 15 mg/30 days of water to the applicant's distribution system from new Well No. 6, and to increase the existing withdrawal limit of 27.7 mg/30 days from all wells to 31 mg/30 days. The project is located in Clayton Borough, Gloucester County, New Jersey.

9. *Township of Medford D–95–55 CP.* An application for approval of a ground water withdrawal project to supply up to 28 mg/30 days of water to the applicant's distribution system from new Well Nos. 14, 15 and 16, and to increase the existing withdrawal limit of 68.7 mg/30 days from all wells to 77 mg/30 days. The project is located in Medford Township, Burlington County, New Jersey.

10. City of Millville D–96–5 CP. An application for approval of a ground water withdrawal project to supply up to 43.2 mg/30 days of water to the applicant's distribution system from new Well No. 17, and to retain the existing withdrawal limit from all wells of 200 mg/30 days. The project is located in the City of Millville, Cumberland County, New Jersey.

11. *Borough of Pemberton D–96–7 CP.* An application for approval of a ground water withdrawal project to supply up to 10.5 mg/30 days of water to the applicant's distribution system from new Well Nos. 4 and 5, and to limit the withdrawal limit from all wells to 10.5 mg/30 days. The project is located in Pemberton Borough, Burlington County, New Jersey.

12. *Keystone Hollow Corporation D–96–14.* An application for approval of a ground water withdrawal project to supply up to 12 mg/30 days of water to the applicant's Great Bear Golf and Country Club irrigation system from new Well Nos. 1, 2 and 3, and to limit the withdrawal from all wells and ponds to mg/30 days. The project is located in Middle Smithfield Township, Monroe County, Pennsylvania.

13. *Borough of Bowmanstown D–96–22 CP.* A project to construct a 0.2 mgd sewage treatment plant (STP) to serve the Borough of Bowmanstown in Carbon County, PA. The proposed STP will provide secondary biological treatment utilizing the activated sludge sequencing batch reactor process. The STP will be located just off Lincoln Avenue on the east side of the Lehigh River to which the treated effluent will discharge after chlorination.

14. *Pennsylvania Department of Conservation and Natural Resources D–96–23 CP.* A project to modify the applicant's existing 0.2 mgd STP serving the Nockamixon State park in Bedminster, East Rockhill, Haycock and Nockamixon Townships, all in Bucks County, PA. The existing extended aeration activated sludge secondary biological treatment process will be changed to a sequencing batch reactor type activated sludge process. The STP is situated downstream of the Tohickon Dam and will continue to discharge to Tohickon Creek just downstream of the

dam after tertiary filtration and chlorine disinfection.

15. *Warwick Township Water & Sewer Authority D–96–24 CP.* A project to construct a 0.12 mgd STP to serve residential and industrial development in an area currently served only by on-lot systems. The STP will be located just north of the intersection of Bristol and Mearns Roads and west of an unnamed tributary of Little Neshaminy Creek, to which it will discharge, in Warwick Township, Bucks County, PA. The STP will utilize the sequencing batch reactor activated sludge process to provide secondary biological treatment. Ultraviolet disinfection will be provided prior to discharge.

16. *Tobyhanna Township D–96–29 CP.* A proposed municipal STP that will provide 0.3 mgd of treatment capacity to serve the Blakeslee Corners area of Tobyhanna Township which has experienced failure of on-lot disposal systems. The new STP will provide advanced secondary biological treatment, tertiary filtration, and ultraviolet disinfection prior to discharge to Tobyhanna Creek, approximately 1,000 feet upstream of State Route 115 in Tobyhanna Township, Monroe County, PA.

17. *Middletown Township D–96–32.* An application for approval of a ground water withdrawal project to supply up to 4 mg/30 days of water to irrigate the applicant's Middletown Country Club golf course from new Well No. 1G, and to limit the withdrawal from all sources to 4 mg/30 days. The project is located in Middletown Township, Bucks county in the Southeastern Pennsylvania Ground Water Protected Area.

18. *Burlington Township D–95 35 CP.* A project to upgrade and expand the applicant's Central Avenue STP from 1.65 mgd to 3.65 mgd, and to relocate the outfall from Tanners Run, a tidal tributary of the Delaware River, to the mainstream of the Delaware River in Water Quality Zone 2. The STP will continue to serve Burlington Township and is located on Central Avenue in Burlington Township, Burlington County, NJ.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: September 3, 1996.

Susan M. Weisman,

Secretary.

[FR Doc. 96–23117 Filed 9–10–96; 8:45 am]

BILLING CODE 6360–01–P–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Acting Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 12, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 5, 1996.

Arthur F. Chantker,

Acting Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Extension.

Title: The Direct Loan Quality Assurance Planning Guide (Phase 1).

Frequency: Semi-annually and annually.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 450.

Burden Hours: 7,200.

Abstract: Student Financial Aid, Federal Aid Programs, Financial Aid Administrators, and their staffs will evaluate the full scope of their delivery systems and office procedures in the context of Federal Student Aid requirements as outlined in the *Direct Loan Quality Assurance Planning Guide (Phase 1).*

[FR Doc. 96–23161 Filed 9–10–96; 8:45 am]

BILLING CODE 23161

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 11, 1996.

ADDRESSES: Written comments should be addressed to the Office of

Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Group publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: September 5, 1996.

Arthur F. Chantker,

Acting Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision.
Title: William D. Ford Federal Direct Loan Program, Loan Discharge Application Documents.
Frequency: On Occasion.
Affected Public: Individuals or households.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 3,000.
Burden Hours: 1,500.
Abstract: These forms will serve as the means of collecting the information that the Department of Education requires in order to determine whether a direct loan borrower qualifies for a loan discharge based on school closure, false certification of student eligibility, or unauthorized signature.

Office of Postsecondary Education

Type of Review: Revision.
Title: Student Aid Report (SAR).
Frequency: Annually.
Affected Public: Individuals or households.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 9,395,776.
Burden Hours: 3,882,726.
Abstract: The Student Aid Report is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

Office of Management

Type of Review: Reinstatement.
Title: Education Department General Administrative Regulations (EDGAR) for grants, 34 CFR Parts 74, 75, 76, and 80.
Frequency: Annually.
Affected Public: Business or other for-profit; Not for profit institutions; State, Local or Tribal Government, SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 36,000.
Burden Hours: 690,000.
Abstract: These collections are necessary for the award and administration of discretionary and formula grants. The collections specific to ED forms are part of the reinvented process ED uses for awarding multi-year discretionary grants. The new process substantially increases flexibility of the grant process by enabling all years of multi-year budgets to be negotiated in at the time of initial award, (ED Form 524), and to submit only performance report (ED Form 524–B) instead of an entire noncompeting continuation (NCC) package to receive NCC funding. This clearance also includes government-wide common rules for Institutions of Higher Education, Non-Profits (A–110), and State and Local Governments (A–102).

[FR Doc. 96–23160 Filed 9–10–96; 8:45 am]
BILLING CODE 4000–01–M

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board, Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Educational Research Policy and Priorities Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATE AND TIME: September 26, 1996, 8 a.m. to 5 p.m.; September 27, 1996, 8 a.m. to 3:30 p.m.

ADDRESS: First Floor Conference Room, 80 F St., N.W., Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: John Christensen, Designated Federal Official, National Educational Research Policy and Priorities Board, 80 F St., N.W., Washington, D.C. 20208–7564. *Telephone:* (202) 219–2065; Fax: (202) 219–1528. *Internet:* John Christensen@ed.gov.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (the Act). The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement (the Office) to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The Act directs the Board to provide guidance to the Congress in its overnight of the Office; to advise the United States on the Federal educational research and development effort; and to solicit advice from practitioners, policymakers, and researchers to define research needs and suggestions for research topics. The meeting of the Board is open to the public.

The agenda for September 26 will center on the Board's by-laws and budget for FY 97 and its review and approval of a long-term Educational Research Priorities Plan. On September 27, the Board will give further consideration to the implementation of the Research Priorities Plan, and to Phase Three of the Standards for the Conduct and Evaluation of Research, Assessing Performance on Contracts, Grants, and Cooperative Agreements. A

final agenda will be available from the Board's office on September 19.

Records are kept of all Board proceedings, and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, 80 F St., NW Washington, D.C. 20208–7564.

Dated: September 5, 1996.

Eve M. Bither,

Executive Director.

[FR Doc. 96–23055 Filed 9–10–96; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education; Federal Work-Study Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to submit a request for a waiver of the requirement that an institution shall use at least 5 percent of the total amount of its Federal Work-Study (FWS) Federal funds granted for the 1996–97 award year to compensate students employed in community service jobs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to submit a written request for a waiver of the statutory requirement that an institution shall use at least 5 percent of its total FWS Federal funds granted for the 1996–97 award year (July 1, 1996 through June 30, 1997) to compensate students employed in community service jobs.

DATES: Closing Date for submitting a Waiver Request and any Supporting Information or Documents: October 18, 1996. An institution must mail or hand-deliver its waiver request and any supporting information or documents on or before October 18, 1996. The Department will not accept a waiver request submitted by facsimile transmission. The waiver request must be submitted to the Institutional Financial Management Division at one of the addresses indicated below.

ADDRESSES: Waiver Request and any Supporting Information or Documents Delivered by Mail. The waiver request and any supporting information or documents delivered by mail must be addressed to Ms. JoAnn Pease, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026–0781.

An applicant must show proof that the applicant mailed its waiver request by October 18, 1996. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a waiver request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail. Institutions that submit waiver requests and any supporting information or documents after the closing date will not be considered for a waiver.

Waiver Requests and any Supporting Information or Documents Delivered by Hand. A waiver request and any supporting information or documents delivered by hand must be taken to Ms. JoAnn Pease, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

Hand-delivered waiver requests will be accepted between 8:00 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays. A waiver request for the 1996–97 award year that is hand-delivered will not be accepted after 4:30 p.m. on October 18, 1996.

SUPPLEMENTARY INFORMATION: Under section 443(b)(2)(A) of the Higher Education Act of 1965, as amended (HEA), an institution must use at least 5 percent of the total amount of its FWS Federal funds granted for an award year to compensate students employed in community service. The Secretary may waive this requirement if the Secretary determines that enforcing it would cause hardship for students at the institution. The institution must submit a written waiver request and any supporting information or documents by the established October 18, 1996 closing date.

The waiver request must be signed by an appropriate institutional official and above the signature the official must include the statement: ''I certify that the information the institution provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by representatives of the Secretary of Education.'' If the institution submits a waiver request and any supporting information or documents after October 18, 1996, the request will not be considered.

To receive a waiver, an institution must demonstrate that complying with the 5 percent requirement would cause hardship for students at the institution. To allow flexibility to consider factors that may be valid reasons for a waiver, the Secretary is not specifying the specific circumstances that would support granting a waiver. However, the Secretary does not foresee many instances in which a waiver will be granted. The fact that it may be difficult for the institution to comply with this provision of the HEA is not a basis for granting a waiver.

Applicable Regulations

The following regulations apply to the Federal Work-Study program:

(1) Student Assistance General Provisions, 34 CFR Part 668.

(2) Federal Work-Study Programs, 34 CFR Part 675.

(3) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.

(4) New Restrictions on Lobbying, 34 CFR Part 82.

(5) Government Debarment and Suspension (Nonprocurement) and Government Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.

(6) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: To receive information, contact Ms. JoAnn Pease, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026–0781. Telephone (202) 708–9797. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

(Authority: 42 U.S.C. 2753).

(Catalog of Federal Domestic Assistance Number: 84.033 Federal Work-Study Program)

Dated: August 30, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–23214 Filed 9–10–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to section 131.a.(1) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160(a)(1)), notice is hereby given of a proposed ''subsequent arrangement'' for the ''storage or disposition of irradiated fuel elements'' within the meaning of subsection 131.a.(2)(E). The subsequent arrangement to be carried out involves the acceptance and management in the United States of up to 19.2 metric tons of heavy metal (MTHM) of foreign research reactor spent nuclear fuel in up to approximately 22,700 individual spent fuel elements, and up to an additional 0.6 MTHM of target material. The subject spent nuclear fuel and targets contain highly enriched (weapons-usable) uranium that was enriched in the United States.

In a Record of Decision published on May 17, 1996 (61 Fed. Reg. 25092), the Secretary of Energy announced a decision to implement a new foreign research reactor spent fuel acceptance program as specified in the Preferred Alternative contained in the Final Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel (DOE/EIS–218F, February 1996) subject to additional stipulations specified in section VII of the Record of Decision. The Department of Energy (DOE) will implement the program over the next 13 years by entering into specific contracts with individual research reactor operators in the countries listed below.

The spent fuel and target material would come from the listed countries, provided that the affected research reactor operators enter into contracts with DOE to govern the shipment of the material and its acceptance by DOE. While the requirements of section 131.a.(1) apply only to a subsequent arrangement under an agreement for cooperation as defined by section 11.b. of the Atomic Energy Act (42 U.S.C. 2014(b)), the Department has decided as a matter of discretion to publish this notice with respect to all shipments to be received in the United States from the listed countries regardless of whether the nuclear material is being transferred under or outside of an agreement for cooperation.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Table 1

Argentina
Australia
Austria
Bangladesh
Belgium
Brazil
Canada
Chile
Colombia
Denmark
Finland
France
Germany
Greece
Indonesia
Iran
Israel
Italy
Jamaica
Japan
Malaysia
Mexico
Netherlands
Pakistan
Peru
Philippines
Portugal
Romania
Slovenia
South Korea
South Africa
Spain
Sweden
Switzerland
Taiwan
Thailand
Turkey
United Kingdom
Uruguay
Venezuela
Zaire

Dated: September 5, 1996.

For the Department of Energy.

Edward T. Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 96–23179 Filed 9–10–96; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the BPI which establishes the procedures BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, and the Bonneville Financial Assistance Instructions (BFAI) which establishes the procedures BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements) are available from BPA for $15 and $10 each, respectively.

ADDRESSES: Copies of the BPI or BFAI may be obtained by sending a check for the proper amount to the Head of the Contracting Activity, Routing CD, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: The Manager, Corporate Communications, 1–800–622–4519.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues as opposed to annual appropriations. Its purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes, pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services which it requires. The BPI is available on two 3½ inch diskettes in Microsoft's Word for Window's format in addition to the printed version. Please specify which is desired when placing the order. BPA's financial assistance operations are conducted under 16 U.S.C. 832 *et seq.*, and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following OMB circulars:

A–21: Cost principles applicable to grants, contracts, and other agreements within institutions of higher education.

A–87: Cost principles applicable to grants, contracts, and other agreements with State and local governments.

A–102: Uniform administrative requirements for grants in aid to State and local governments, and the common rule.

A–110: Grants and agreements with institutions of higher education, hospitals and other nonprofit organizations.

A–12: Cost principles applicable to grants, contracts, and other agreements with nonprofit organizations.

A–128: Audits of State and local governments. BPA's solicitations include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information of offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on August 29, 1996.

Steven C. Kallio,

Manager, Contracts and Property Management.

[FR Doc. 96–23186 Filed 9–10–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. TM97–1–20–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Algonquin Gas Transmission Company (Algonquin) filed to update its Annual Charge Adjustment (ACA). Algonquin tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, and Original Volume No. 2, of the following revised tariff sheets, with a proposed effective date of October 1, 1996:

Fourth Revised Volume No. 1

Thirteenth Revised Sheet No. 21
Thirteenth Revised Sheet No. 22
Tenth Revised Sheet No. 23
Tenth Revised Sheet No. 24
Tenth Revised Sheet No. 25
Tenth Revised Sheet No. 27
Ninth Revised Sheet No. 29
Ninth Revised Sheet No. 31
Ninth Revised Sheet No. 35
First Revised Sheet No. 36
First Revised Sheet No. 37

Original Volume No. 2

Tenth Revised Sheet No. 259
Ninth Revised Sheet No. 343
Seventh Revised Sheet No. 431

Algonquin states that this filing decreases its current ACA charge by $.0003 per MMBtu to $0.0020 per MMBtu.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.10 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. 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. 96–23139 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP96–373–000, RM96–14–001]

Boston Gas Company and Secondary Market Transactions on Interstate Natural Gas Pipelines; Notice of Filing

September 5, 1996.

Take notice that on August 30, 1996, Boston Gas Company tendered for filing in Docket No. RM96–14–001 an application to participate in the Commission's Proposed Experimental Pilot Program to Relax the Price Cap for Secondary Market Transactions. Boston Gas is a local distribution company that serves approximately 40,000 commercial and industrial customers and 480,000 residential customers in the metropolitan Boston area. Its public utility activities are subject to regulation by the Massachusetts Department of Public Utilities (''MassDPU'').

On May 17, 1996, Boston Gas on its own initiative filed proposed tariff sheets with the MassDPU to unbundle its firm transportation service and to withdraw entirely from the merchant business. Hearings on the proposal have concluded, and the MassDPU will act on the proposal no later than November 29, 1996. Boston Gas states that it is willing to accept contingent approval of its application subject to action taken by the MassDPU.

Boston Gas submits that its unbundling proposal is consistent with the pilot program and that its phased departure from the merchant business will remove the potential to exercise market power within Boston Gas' service territory. Under Boston Gas' timetable, unbundled sales and transportation service will be available to all of its commercial and industrial customers effective December 1, 1996, and to all residential customers effective November 1, 1997. The proposal includes a capacity assignment program which will enable customers to choose their own marketers and permit these marketers to offer competitive prices for gas supply delivered to the Company's city-gate stations. Boston Gas states that thirteen gas marketers are currently competing for this business.

Any person desiring to comment on or to protest Boston Gas's application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.211 and 385.214 and with the Commission's notice in Docket No. RM–96–14–001. All such motions or protests must be filed within 15 days and comply with the requirements 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 a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Boston Gas' application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23154 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–120–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Carnegie Interstate Pipeline Company (CIPCO), tendered for filing and acceptance the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet with a proposed effective date of October 1, 1996:

Ninth Revised Sheet No. 7

CIPCO states that the above tariff sheet has been revised to reflect a modification to the Annual Charge Adjustment fee. CIPCO was not assessed any annual charges this year and, therefore, reduced its ACA to zero. CIPCO reserved all rights to refile its ACA in the event that it is assessed ACA charges.

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations.

All such motions or 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. 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. 96–23150 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–371–000]

Cleveland Electric Illuminating Company; Notice of Filing

September 5, 1996.

Take notice that on July 29, 1996, Cleveland Electric Illuminating Company tendered for filing an amendment in the above-referenced docket.

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 September 13, 1996. 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. 96–23138 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–32–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

September 5, 1996.

Take notice that on August 30, 1996, Colorado Interstate Gas Company (CIG) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 11A, with a proposed effective date of October 1, 1996.

CIG states that the tariff sheet reflects an increase in the fuel reimbursement percentage for Lost, Unaccounted-For and Other Fuel Gas from 0.58% to 0.62%, reflecting an increase in the fuel retention percentage for Transportation Fuel Gas from 2.32% to 2.39%, and reflecting a decrease in the fuel retention percentage for Storage Fuel Gas from 1.36% to 1.25% effective October 1, 1996.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should 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. Any person wishing to become a party must give 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. 96–23133 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–32–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Colorado Interstate Gas Company, (CIG) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Eighteenth Revised Sheet No. 11, with an effective date of October 1, 1996.

CIG states that the tariff sheet reflects an ACA rate of $0.0020 per Dth based on CIG's 1996 ACA billing.

CIG requests that the new $0.0020 cent per Dth ACA charge be effective October 1, 1996.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All such petitions or 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. 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. 96–23140 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP96–355–000, RP96–356–000, RM96–14–001]

Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, Secondary Market Transactions on Interstate Natural Gas Pipelines; Notice of Application to Participate in Experimental Pilot Program and of Proposed Changes in FERC Gas Tariffs

September 5, 1996.

Take notice that on August 30, 1996, Columbia Gas Transmission Corporation (Transmission) and Columbia Gulf Transmission Company (Gulf) [together Columbia] each filed the following revised tariff sheets to their FERC Gas Tariffs, Second Revised Volumes No. 1 bearing a proposed effective date of November 1, 1996:

Columbia Gas Transmission Corporation

Second Revised Sheet No. 295
Third Revised Sheet No. 352
Third Revised Sheet No. 353
Third Revised Sheet No. 354

Pro Forma Tariff Sheets

Sheet No. 262
Sheet No. 485
Sheet No. 486
Sheet No. 487
Sheet No. 488

Columbia Gulf Transmission Company

Fourth Revised Sheet No. 154
Original Sheet No. 154A
Fifth Revised Sheet No. 192
Second Revised Sheet No. 193
Fourth Revised Sheet No. 194
Second Revised Sheet No. 194A
Third Revised Sheet No. 195

Pro Forma Tariff Sheets

Sheet No. 125
Sheet No. 281
Sheet No. 282

Sheet No. 283
Sheet No. 284

Transmission and Gulf state that the purpose of their filing is to implement the necessary tariff changes so that Transmission and Gulf can each participate in the Commission's Proposed Experimental Pilot Program to Relax the Price Cap for Secondary Market Transactions (Pilot Program) issued in Docket No. RM96–14–001 on July 31, 1996.

The non-pro forma tariff sheets have an effective date of November 1, 1996, and they contain changes to reflect early implementation on a permanent basis of the capacity release timeline proposed by the Gas Industry Standards Board (GISB) and adopted by the Commission in Order No. 587. Transmission and Gulf request a waiver of 18 CFR 154.207 to permit the filing of these tariff sheets at this time to be effective November 1, 1996. The pro forma tariff sheets contain changes to reflect Transmission's and Gulf's participation in the Pilot Program. All of the tariff changes are explained in detail in the filing.

Gulf's Fourth Revised Sheet No. 154 requires some explanation. The new changes reflected on that sheet are being made on the version of that tariff sheet (Third Revised Sheet No. 154) which Gulf filed with other tariff sheets initiating Docket No. RP96–283. Revised Sheet No. 154—while accepted (to be effective January 1, 1997)—remains subject to the outcome of technical conference proceedings in that docket. However, Gulf states that the changes reflected on Third Revised Sheet No. 154 in Docket No. RP96–283 were not protested, and reflect a proposed implementation of more liberal nomination deadlines and intra-day nomination changes. Consequently, in this filing, Gulf has made further revisions to Third Revised Sheet No. 154 to reflect the early implementation of GISB's capacity release timeline, and respectfully requests that Fourth Revised Sheet No. 154 submitted with this filing be accepted and suspended to be effective November 1, 1996. In order to grant this request, Gulf requests a waiver of 18 CFR 154.205.

Transmission and Gulf state that copies of their filing have been mailed to all firm customers, affected state commissions and interruptible customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests must be filed within 15 days and comply with the requirements of 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. 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. 96–23127 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–127–000]

Cove Point LNG Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Cove Point LNG Limited Partnership (Cove Point LNG) tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective October 1, 1996:

First Revised Sheet No. 5
First Revised Sheet No. 6
First Revised Sheet No. 7

Cove Point LNG states that the listed tariff sheets set forth the adjustment to its rates applicable to the Annual Charge Adjustment (ACA), pursuant to the Commission's Regulations and Section 23 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Cove Point LNG states further that it has recalculated the Commission's revised ACA rate per Mcf of $0.0020 to a rate per Dth of $0.0020. The adjusted ACA Unit Surcharge will be billed for the fiscal year commencing October 1, 1996.

Cove Point LNG states that copies of the filing were served upon Cove Point LNG's affected 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests 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. Any person wishing to become a party must file a motion to intervene. Copies of Cove Point LNG's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23146 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–33–000]

El Paso Natural Gas Company; Notification of Annual Charge Adjustment

September 5, 1996.

Take notice that on August 30, 1996, El Paso Natural Gas Company (El Paso), tendered for filing pursuant to Subpart E of part 154 of the Commission's Regulations Under the Natural Gas Act, a notice that El Paso's Annual Charge Adjustment (ACA) will remain $0.0023 per dth as reflected on its currently effective Statement of Rates Sheets.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system transportation customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 motions or protests must be 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. 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. 96–23151 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–113–000]

Gasdel Pipeline System, Inc.; Notice of Change in Annual Charge Adjustment

September 5, 1996.

Take notice that on August 30, 1996, Gasdel Pipeline System, Inc. (Gasdel) tendered for filing and acceptance to be

a part of its FERC Gas Tariff, First Revised Volume No. 1–A, Fifth Revised Sheet No. 5, with a proposed effective date of October 1, 1996.

Gasdel states that the purpose of this filing is to revise its Annual Charge Adjustment surcharge in order to recover the Commission's annual charges for the 1996 fiscal year.

Gasdel states that copies of the filing have been mailed to all jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or 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. Any person desiring 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. 96–23149 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP96–370–000, RM96–14–001]

Kern River Gas Transmission Company and Secondary Market Transactions on Interstate Natural Gas Pipelines; Notice of Application to Participate in Experimental Pilot Program

September 5, 1996.

Take notice that on August 30, 1996, Kern River Gas Transmission Company (Kern River) filed with the Commission an application to participate in the experimental pilot program announced by the Commission in Docket No. RM96–14–000. The markets proposed by Kern River for inclusion in the program are California and Nevada.

According to its application, Kern River lacks market power in its origin market of Southwestern Wyoming and its destination markets in Nevada and California. Kern River states that, at the interstate level, it competes with El Paso Natural Gas Company, Transwestern Pipeline Company, Pacific Gas Transmission Company and Mojave Pipeline Company for California services. Kern River states that it serves California markets through twenty-seven (27) delivery points, including 25 connections serving end-use markets and two connections (one each) with Pacific Gas and Electric Company (PG&E) and Southern California Gas Company (SoCal). Kern River states that of the 25 direct connection delivery facilities, all are connected to Mojave (in addition to Kern River) and 20 are dually connected to either PG&E or SoCal. Kern River further states that the current regulatory and market climate within the state qualify the California delivery points under the experimental program.

According to Kern River, the Nevada markets are also sufficiently competitive to permit certain cap-free services. Most of Kern River's Nevada deliveries are off-loaded into the facilities of Southwest Gas Company, a local distribution company offering unbundled, open-access transportation to non-core customers. Kern River states that, in relative terms, its contractual service obligations account for less than 24% of the daily (contract) requirements of that market.

Kern River propose to provide short-term firm, interruptible and authorized overrun services free of price cap constraints. In addition, Kern River proposes to include in the program capacity released by its firm shippers. Kern River states that it will treat all secondary market transactions on a comparable basis in terms of scheduling and administration. Kern River proposes an effective date of October 1, 1996 with a termination date of September 30, 1997, or one year after the program's inception.

Any person desiring to comment on or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 8788 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such interventions or protests must be filed within 15 days and comply with the requirements 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. 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. 96–23156 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–25–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Mississippi River Transmission Corporation (MRT), tendered for filing to become part of its FERC Gas Tariff, Third Revision Volume No. 1, Ninth Revised Sheet No. 10, with a proposed effective date of October 1, 1996.

MRT states that the purpose of the instant filing is to report the currently effective ACA charge in MRT's rates based on the new FERC approved surcharge of $0.0023 per Mcf effective October 1, 1996 in accordance with Section 23 of MRT's FERC Gas Tariff. The Mcf rate of $0.0023 divided by MRT's system Btu factor for the 12 months ended December 31, 1995 of 1.029 converts to a MMBtu rate of $0.0022 which is the same as MRT's currently effective ACA surcharge.

Any person desiring to be heard or protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and 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 the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23134 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–92–000]

Mojave Pipeline Company; Notification of Annual Charge Adjustment

September 5, 1996.

Take notice that on August 30, 1996, Mojave Pipeline Company (Mojave), tendered for filing pursuant to Subpart E of Part 154 of the Commission's Regulations Under the Natural Gas Act, a notice that Mojave's Annual Charge Adjustment (ACA) will remain $0.0023 per dth as reflected on its currently effective Statement of Rates Sheets.

Mojave states that copies of the filing were served upon all of Mojave's interstate pipeline system transportation customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 motions or 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. 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. 96–23148 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP96–372–000, RM96–14–001]

Mountaineer Gas Company and Secondary Market Transactions on Interstate Natural Gas Pipelines; Notice of Application

September 5, 1996.

Take notice that on August 30, 1996, Mountaineer Gas Company (Mountaineer) filed and application to participate in the Commission's experimental pilot program for capacity release transactions. Mountaineer requests authorization to release capacity on Columbia Gas Transmission Corporation (Columbia) and Columbia Gulf Transmission Company (Columbia Gulf) at prices in excess of the pipelines' maximum tariff rates. According to Mountaineer, the company provides open access transportation on its local distribution facilities and does not exercise market power in its service territory. Mountaineer also states that both Columbia pipelines have agreed to implement the Business Practices Rule and provide the required reporting data. Mountaineer also agrees to provide the necessary reporting data.

Any person desiring to comment on 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 regulations. All such interventions or protests must be filed within 15 days and comply with the requirements 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. Any person wishing to become a party must file a motion to intervene. Copies of Mountaineer's filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Louis D. Cashell,

Secretary.

[FR Doc. 96–23155 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–353–000; RM96–14–001]

National Fuel Gas Distribution Corporation; Secondary Market Transactions on Interstate Natural Gas Pipelines; Notice of Application to Participate in Pilot Program

September 5, 1996.

Take notice that on August 30, 1996, National Fuel Gas Distribution Corporation (National Fuel Distribution) tendered for filing an application to participate in the ''Proposed Experimental Pilot Program To Relax The Price Cap for Secondary Market Transactions'' (Pilot Program), promulgated in Docket No. RM96–14–001.

Through its application, National Fuel Distribution seeks a finding that it lacks market power on its upstream pipelines in the relevant area and that those upstream pipelines likewise lack market in the relevant area.

National Fuel Distribution seeks permission for itself and the majority of its upstream pipelines to participate in the Pilot Program for the period of the 1996–1997 winter season with the opportunity to extend the program. The pipelines agreeing to participation in the Pilot Program with National Fuel Distribution for the 1996–1997 winter period are Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Company, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation.

National Fuel Distribution requests that CNG Transmission Corporation's and Tennessee Gas Pipeline Company's participation at some future date be conditioned upon their complying with the comparability and reporting requirements provision of the Pilot Program.

Further, National Fuel Distribution requests that the reporting requirements be modified so as: (1) to provide only aggregated information, or in the alternative to preserve the identity of shippers in filed reports; (2) to provide National Fuel Distribution and its participating upstream pipelines with at least six months in which to file the requisite information; and (3) to require annual reporting, or in the alternative, quarterly reporting rather than monthly.

Any person desiring to comment on or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest must be filed within 15 days and comply with the requirements 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. 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. 96–23128 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96– 367–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets to become effective October 1, 1996:

Third Revised Volume No. 1

Ninth Revised Sheet No. 5
Seventh Revised Sheet No. 5–A
Fourth Revised Sheet No. 6
Fourth Revised Sheet No. 7
Eighth Revised Sheet No. 8
Third Revised Sheet No. 8.1
First Revised Sheet No. 34
Second Revised Sheet No. 65
First Revised Sheet No. 95
Fourth Revised Sheet No. 200
Fourth Revised Sheet No. 271
Second Revised Sheet No. 272

Third Revised Sheet No. 273

Original Volume No. 2

Twenty-Second Revised Sheet No. 2
Eighteenth Revised Sheet No. 2.1
Twenty-First Revised Sheet No. 2–A

Northwest states that the proposed changes would increase revenues from jurisdictional services by approximately $28.1 million based on the 12-month period ending May 31, 1996, as adjusted.

Northwest states that its revenue requirement has increased due to increased cost of service, primarily as a result of (1) the sale of a significant undivided interest in Northwest's South End facilities and the corresponding effect of the removal of facility costs from rate base and the elimination of the South End revenue credit, (2) increased depreciation expenses related to proposed increases in depreciation rates, the implementation of negative net savage allowances and the construction of new facilities, and (3) increased operating and maintenance expenses.

Northwest states that its proposed tariff sheets are submitted to revise its statement of rates tariff sheets and to eliminate tariff provisions that require 90/10 sharing of interruptible transportation service revenues over the allocated cost level.

Northwest states that it has served copies of its filing on all affected customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23125 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–751–000]

Panhandle Eastern Pipe Line Company; Notice of Application

September 5, 1996.

Take notice that on August 28, 1996, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642 filed in Docket No. CP96–751–000 a request for authorization pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, to operate certain existing facilities located in Darke and Shelby Counties, Ohio as NGA jurisdictional facilities and to provide NGA jurisdictional service on the subject facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it constructed facilities pursuant to Section 311(a)(1) of the Natural Gas Policy Act (NGPA) and Subpart B of Part 284 of the Commission's Regulations in Darke and Shelby Counties, Ohio in order to provide transportation services for various firm transportation and storage customers. Panhandle now requests that these facilities (the Glen Karn Pipeline and the Shelby County Pipeline) be certificated as jurisdictional and that it be authorized to provide NGA jurisdictional services under Section 284 of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1996, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211 or Section 385.214) and the Regulations under the Natural Gas Act (18 CFR Section 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 application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If 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 Panhandle to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23129 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No.; TM97–1–55–000]

Questar Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Questar Pipeline Company, (Questar) pursuant to Section 154.402(c) and Section 382.201 of the Commission's Regulations, tendered for filing and acceptance to become of its FERC Gas Tariff, the following sheets, to be effective October 1, 1996:

First Revised Volume No. 1

Sixth Revised Sheet No. 5
Fifth Revised Sheet No. 5A
Sixth Revised Sheet No. 6
Fourth Revised Sheet No. 6A

Original Volume No. 3

Seventeenth Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge unit rate of $0.00203 per Mcf as adjusted by Questar's Btu factor of 1.062.

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or 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. 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. 96–23132 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–8–000]

South Georgia Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, South Georgia Natural Gas Company (South Georgia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised sheets, with a proposed effective date of October 1, 1996:

Fifth Revised Sheet No. 5
Fifth Revised Sheet No. 6
Second Revised Sheet No. 91

South Georgia states that the aforesaid tariff sheets implement the Commission's revised Annual Charge Adjustment (ACA) of .20¢ per MMBtu. This represents a decrease of .03¢ per MMBtu in the ACA charge from the current level of .23¢ per MMBtu.

South Georgia states that copies of South Georgia's filing were served upon all of South Georgia's customers, interested state commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (Sections 385.214, 385.211). All such motions or 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 the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23145 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–376–000]

Southern Natural Gas Company; Notice of GSR Revised Tariff Sheets

September 5, 1996.

Take notice that on August 30, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of September 1, 1996:

Thirteenth Revised Sheet No. 14
Thirty Fifth Revised Sheet No. 15
Thirteenth Revised Sheet No. 16
Thirty Fifth Revised Sheet No. 17
Twenty Third Revised Sheet No. 29

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN GSR Surcharge, due to an increase in GSR billing units effective September 1, 1996, a credit for excess firm transportation reservation quantities and the removal of a credit for excess firm transportation reservation quantities included in its July 31, 1996 filing in the above referenced dockets.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or 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. Any person wishing to become a party must file a motion to intervene. Copies Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23141 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–7–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Southern Natural Gas Company (Southern) tendered for filing to become part its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised sheets, with a proposed effective date of October 1, 1996:

Fourteenth Revised Sheet No. 14
Fifth Revised Sheet No. 14a
Thirty-six Revised Sheet No. 15
Twelfth Revised Sheet No. 15a
Fourteenth Revised Sheet No. No. 16
FIfth Revised Sheet No. 16a
Thirty-six Revised Sheet No. 17
Twelfth Revised Sheet No. 17a
Twentieth Revised Sheet No. 18
Fifth Revised Sheet No. 18a
Fourth Revised Sheet No. 194

Southern states that the aforesaid tariff sheets implement the Commission's revised annual charge adjustment of .20¢ per MMBtu of October 1, 1996.

Southern states that copies of Southern's filing were served upon all of Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (Sections 385.214, 385.211). All such petitions or 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 the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23144 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–375–000]

Southern Natural Gas Company; Notice of GSR Cost Recovery Filing

September 5, 1996.

Take notice that on August 30, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised

Volume No. 1, the following tariff sheets with the proposed effective date of October 1, 1996:

Tariff Sheets Applicable to Contesting Parties:

Fifteenth Revised Sheet No. 14
Thirty-Seventh Revised Sheet No. 15
Fifteenth Revised Sheet No. 16
Thirty-Seventh Revised Sheet No. 17
Twenty-First Revised Sheet No. 18
Twenty-Fourth Revised Sheet No. 29

Tariff Sheets Applicable to Supporting Parties:

Sixth Revised Sheet No. 14A
Thirteenth Revised Sheet No. 15A
Sixth Revised Sheet No. 16A
Thirteenth Revised Sheet No. 17A

Southern sets forth in the filing its revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSR costs associated with the payment of price differential costs under unrealigned gas supply contracts or contract buyout costs associated with continuing realignment efforts as well as sales function costs during the period May 1, 1996 through July 31, 1996. These GSR costs have arisen as a direct result of customers' elections during restructuring to terminate their sales entitlements under Order No. 636.

Southern states that copies of the filing were served upon Southern'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 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or 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. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23152 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–756–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

September 5, 1996.

Take notice that on August 29, 1996, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed a request with the Commission in Docket No. CP96–756–000, pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct a delivery point in Shelby County, Texas, to provide interruptible transportation service deliveries for Four Square Gas Company, Inc. and the City of Chireno, collectively referred to as (Customers), herein. The Commission granted Texas Eastern a blanket construction certificate issued on November 5, 1982 in Docket No. CP82–535–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern proposes to construct and install a 2-inch tap valve and 2-inch check valve on Texas Eastern's 24-inch Line No. 11, located approximately at Mile Post 225.70 in Shelby County, Texas (Tap). The Customers would install a single 2-inch turbine meter (Meter Station), approximately 50 feet of 2-inch pipeline which would extend from the Meter Station to the Tap (Connecting Pipe), and the electronic gas measurement equipment (EGM). Texas Eastern states that the Customers have agreed to reimburse Texas Eastern for 100% of the costs and expenses that Texas Eastern would incur for installing the Tap and for reviewing and inspecting the installation of the Meter Station and Connecting Pipe and EGM to be done by the Customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23135 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–378–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on September 3, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, tariff sheets listed on Appendix E to the filing, to become effective November 1, 1996.

Texas Eastern states that the purpose of the filing is (1) to modify Sections 9.2, 9.3, 9.4, 9.5, 9.9 and 14.4 of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1 to remove the voluminous tables of data representing Texas Eastern's Segment Capacity Entitlements and Firm Receipt Point Entitlements, which are reflected on its electronic bulletin board, the LINK system and (2) to make its report pursuant to Section 9.1 of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1 of recalculated November 1, 1996 Operational Segment Capacity Entitlements, along with supporting documentation explaining the basis for changes.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 an d385.211 of the Commission's Rules and Regulations. All such motions or 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. 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. 96–23143 Filed 9–10–96; 8:45 a.m.]

BILLING CODE 6717–01–M

[Docket No. TM97–2–18–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Texas Gas Transmission Corporation (Texas Gas) tendered for filing to become part of its FERC GAS Tariff, First Revised Volume No. 1, the following tariff sheet, with a proposed effective date of November 1, 1996:

Fourth Revised Sheet No. 14

Texas Gas states that the tariff sheet is being filed to establish a revised Effective Fuel Retention Percentage (EFRP) under the provisions of Section 16 ''Fuel Retention'' as found in the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1. Texas Gas states that the revised EFRP may be in effect for the annual period November 1, 1996, through October 31, 1997.

Texas Gas states that copies of the tariff sheets are being mailed to Texas Gas's affected customers and interested state commission.

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 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or 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. 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. 96–23131 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–365–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice on August 30, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, which tariff sheets are enumerated in Appendix A attached to the filing. The proposed effective date of the tariff sheets is October 1, 1996.

Transco states that the purpose of the instant filing is to revise Transco's FERC Gas Tariff in order to comply, in part, with the regulations adopted pursuant to Order No. 582 et seq. Specifically, the revised tariff sheets submitted therein are intended to bring Transco's tariff into compliance with the requirements of Section 154.107 of the Commission's Regulations.

Transco is serving copies of the instant filing to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed 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. 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. 96–23126 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–368–000; Docket No. RM96–14–001]

Washington Gas Light Company; Secondary Market Transactions on Interstate Natural Gas Pipelines; Notice of Application of Washington Gas Light Company to Participate in Proposed Experimental Pilot Program To Relax the Price Cap for Secondary Market Transactions

September 5, 1996.

Take notice that on August 30, 1996, Washington Gas Light Company (Washington Gas) filed an Application to Participate in the ''Proposed Experimental Pilot Program to Relax the Price Cap for Secondary Market Transactions'' pursuant to the Commission's notice issued July 31, 1996, in Docket No. RM96–14–001. Washington Gas states that it qualifies for participation in the proposed pilot program.

Washington Gas states that copies of its filing are available for inspection at its offices at 1100 H Street, NW., Washington, DC.

Any person desiring to comment on or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests must be filed within 15 days and comply with the requirements 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. 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. 96–23124 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–377–000]

West Texas Gas, Inc.; Notice of Restatement Filing

September 5, 1996.

Take notice that on August 30, 1996, West Texas Gas, Inc. (WTG), tendered for filing a restatement of its base tariff rates pursuant to its proposed Section 19.3(e) of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. WTG states that

a new Section 19.3(e), incorporating into WTG's tariff former Section 154.303(e) of the Commission's Purchased Gas Adjustment Regulations, which were removed by Order No. 582, has been submitted for Commission approval concurrently herewith. WTG states that the base rate restatement supports its currently effective weighted averaged transmission rates of $0.3491 per Mcf.

WTG states that copies of the filing were served upon WTG's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 motions or 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 the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23142 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–748–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

September 5, 1996.

Take notice that on August 27, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–748–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install measurement and appurtenant facilities to deliver gas to Western Resources, Inc. (WRI), at the Fairfax Bridge Town Border located in Wyandotte County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that with the sale of WRI's Missouri distribution facilities to Missouri Gas Energy, it is now necessary to measure the Missouri and the Kansas volumes separately. The projected volume of delivery with the new facilities, it is said, would not exceed the current delivered volume. WNG estimates the cost of construction to be approximately $258,649.

WNG states further that this change is not prohibited by any existing tariff and the WNG has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–23130 Filed 9–11–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–43–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, Fifteenth Revised Sheet No. 6A. The proposed effective date of this tariff sheet is October 1, 1996.

WNG states that pursuant to Article 26 of the General Terms and Conditions of its FERC Gas Tariff, and FERC Annual Charges Billing under 18 CFR Part 382, dated July 29, 1996, it is filing to reflect a decrease in the FERC Annual Charge Adjustment from $.0023 to $.0020 per Dth for the fiscal year beginning October 1, 1996.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a 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 motions or 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. 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. 96–23147 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–374–000]

Wyoming Interstate Company, Ltd., Notice of Proposed Changes in FERC Gas Tariff

September 5, 1996.

Take notice that on August 30, 1996, Wyoming Interstate Company, Ltd. (WIC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 and Second Revised No. 2, revised tariff sheets included in Appendix A to the filing, with a proposed effective date of October 1, 1996.

WIC states that the purpose of the filing is to convert WIC's tariffs and rates from a volumetric to a thermal basis pursuant to the Commission's Order No. 582 issued September 28, 1995 at Docket No. RM95–3–000. WIC states that it used a Btu conversion ratio of 1053 Btu to 1 Mcf. This conversion ratio was determined on the basis of a system average gas thermal content for the three months April 1996 through June 1996.

WIC states that copies of the filing are being served on all its jurisdictional customers and affected state government agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules or Practice and Procedure. All such motions or 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. 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. 96–23153 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1618–001, et al.]

Progress Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

September 5, 1996.

Take notice that the following filings have been made with the Commission:

1. Progress Power Marketing, Inc.

[Docket No. ER96–1618–001]

Take notice that on August 16, 1996, Progress Power Marketing, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Illinois Power Company

[Docket No. ER96–1888–001]

Take notice that on August 16, 1996, Illinois Power Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Midwest Energy, Inc.

[Docket No. ER96–2027–001]

Take notice that on August 15, 1996, Midwest Energy, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Edison Source

[Docket No. ER96–2150–001]

Take notice that on August 14, 1996, Edison Source tendered for filing its compliance filing in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Sandia Energy Resources Company

[Docket No. ER96–2538–000]

Take notice that on August 14, 1996, Sandia Energy Resources Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ER96–2838–000]

Take notice that on August 28, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *East Texas Electric Cooperative, Inc.* The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *East Texas Electric Cooperative, Inc.* pursuant to the tariff.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *East Texas Electric Cooperative, Inc.*

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. UtiliCorp United Inc.

[Docket No. ER96–2839–000]

Take notice that on August 28, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with *East Texas Electric Cooperative, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to *East Texas Electric Cooperative, Inc.* pursuant to the tariff.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *East Texas Electric Cooperative, Inc.*

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER96–2840–000]

Take notice that on August 28, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Tenneco Packaging, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 12, 1996.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER96–2841–000]

Take notice that on August 28, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Aquila Power Corporation will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 5, 1996.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. PECO Energy Company

[Docket No. ER96–2842–000]

Take notice that on August 28, 1996, PECO Energy Company (PECO) filed a Service Agreement dated June 5, 1996 with TransCanada Power Corporation (TransCanada) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TransCanada as a customer under the Tariff.

PECO requests an effective date of July 31, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to TransCanada and to the Pennsylvania Public Utility Commission.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. PECO Energy Company

[Docket No. ER96–2843–000]

Take notice that on August 28, 1996, PECO Energy Company (PECO), filed a Service Agreement dated August 20, 1996 with Coral Power, L.L.C. (Coral) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Coral as a customer under the Tariff.

PECO requests an effective date of August 20, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to Coral and to the Pennsylvania Public Utility Commission.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas and Electric Company

[Docket No. ER96–2845–000]

Take notice that on August 29, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Entergy Services, Inc. under Rate GSS.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER96–2846–000]

Take notice that on August 29, 1996, PECO Energy Company (PECO), filed a Service Agreement dated July 22, 1996 with Seminole Electric Cooperative, Inc. (Seminole) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds Seminole as a customer under the Tariff.

PECO requests an effective date of August 1, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to Seminole and to the Pennsylvania Public Utility Commission.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Pacific Gas and Electric Company

[Docket No. ER96–2847–000]

Take notice that on August 29, 1996, Pacific Gas and Electric Company (PG&E), tendered for filing: (1) A notice for terminating transmission service under the ''Superseding Agreement for Transmission Service for the Coldwater Creek Geothermal Power Plant between Pacific Gas and Electric Company and CCPA No. 1 Member Utilities,'' PG&E Rate Schedule FERC No. 174; (2) a notice for termination of transmission service under the ''Superseding Agreement for Coldwater Creek Geothermal Power Plant Backbone Transmission Service between Pacific Gas and Electric Company and Sacramento Municipal Utility District,'' PG&E Rate Schedule FERC No. 175; (3) a revised Appendix E to PG&E Rate Schedule FERC No. 136, the PG&E–SMUD Interconnection Agreement, reflecting the requested reduction; (4) a revised Exhibit A–4 to PG&E Rate Schedule FERC No. 85, the PG&E-City of Santa Clara (Santa Clara) Interconnection Agreement, reflecting the requested reduction; (5) annual adjustments to transmission rates under PG&E Rate Schedule FERC Nos. 88, 91, 138 and 176 with SMUD and PG&E Rate Schedule FERC No. 116, the PG&E-Modesto Irrigation District (MD) Interconnection Agreement; and (6) Amendment No. 5 to PG&E Rate Schedule FERC No. 136, the PG&E–SMUD Interconnection Agreement.

PG&E has also requested a waiver of the Commission's notice requirements to allow a July 1, 1996 effective date for all of these rate schedule changes except Amendment No. 5 to PG&E Rate Schedule FERC No. 136.

Copies of this filing have been served upon SMUD, MD, Santa Clara, CCPA and the California Public Utilities Commission.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Nevada Power Company

[Docket No. ER96–2848–000]

Take notice that on August 29, 1996, Nevada Power Company (Nevada Power), tendered for filing a Letter Agreement between Nevada Power and the Colorado River Commission (CRC), providing for the sale of additional capacity to the CRC for the month of September, 1996.

Copies of this filing have been served on the CRC and the Nevada Public Service Commission.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Montaup Electric Company

[Docket No. ER96–2849–000]

Take notice that on August 29, 1996, Montaup Electric Company (Montaup), filed a revised Appendix B to a contract dated September 25, 1987 providing for the sale of capacity and energy from Montaup's Canal No. 2 generating unit to the Braintree Electric Light Department (Braintree) (Rate Schedule FERC No. 86). The revised Appendix B increases Montaup's capacity charge to cover the cost of converting Canal No. 2 to burn gas instead of oil and is to become effective November 1, 1996 in accordance with an August 23, 1996, letter agreement between Montaup and Braintree.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Sierra Pacific Power Company

[Docket No. ER96–2850–000]

Take notice that on August 29, 1996, Sierra Pacific Power Company (Sierra), tendered for filing, pursuant to section 205 of the Federal Power Act and 18 CFR Part 35, an Electric Service Agreement between Sierra and City of Fallon (Fallon).

Sierra asserts that the filing has been served on Fallon and on the regulatory commissions of Nevada and California.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Tampa Electric Company

[Docket No. ER96–2851–000]

Take notice that on August 29, 1996, Tampa Electric Company (Tampa Electric), tendered for filing service agreements with the Utility Board of the City of Key West, Florida, InterCoast Power Marketing Company, Sonat Power Marketing, Inc. and Florida Power & Light Company, for the non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of August 29, 1996, for the service agreements, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on the other parties to the service agreements and the Florida Public Service Commission.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–2852–000]

Take notice that on August 29, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement with Commonwealth Edison Company, Inc. (CE) to provide for the sale of energy and capacity. For energy the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC (where such 10 percent is limited to 1 mill per Kwhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity is $7.70 per megawatt hour.

Con Edison states that a copy of this filing has been served by mail upon CE.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–2853–000]

Take notice that on August 29, 1996, Consolidated Edison Company of New York,, (Con Edison), tendered for filing an agreement with Noram Energy Services, Inc. (NES) to provide for the sale of energy and capacity. For Energy the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity is $7.70 per megawatt per hour. Energy and capacity

sold by NES will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon NES.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. The Dayton Power and Light Company

[Docket No. ER96–2854–000]

Take notice that on August 29, 1996, The Dayton Power and Light Company (Dayton), tendered for filing, an executed Master Electric Interchange Agreement between Dayton and CNG Power Services Corporation (CNG).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to CNG power and/or energy for resale.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Electric Power Company

[Docket No. ER96–2855–000]

Take notice that on August 30, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a transmission service agreement between itself and Dairyland Electric Power Cooperative (Dairyland). The agreement establishes Dairyland as a customer under Wisconsin Electric's transmission service tariff (FERC Electric Tariff, Original Volume No. 7).

Wisconsin Electric respectfully requests an effective date sixty days after filing. Wisconsin Electric is authorized to state that Dairyland joins in the requested effective date.

Copies of the filing have been served on Dairyland, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. North Carolina Utilities Commission

[Docket No. IR–188–001]

On August 19, 1996, the North Carolina Utilities Commission (NCUC) filed a supplement to its petition for waiver in this docket.

The supplement notes that NCUC has duly implemented the Commission's PURPA Regulations by filing a notice of this petition for waiver in newspapers of general circulation within the service area of Nantahala Power and Light Company.

Any person who wishes to be heard or to object to granting of the petition 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. A motion or protest must be filed within 15 days after the date of publication of this notice and must be served on the applicant. 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. A person who wishes to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

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. 96–23199 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EL79–8–007, et al.]

Texas Utilities Electric Company, et al.; Electric Rate and Corporate Regulation Filings

September 4, 1996.

Take notice that the following filings have been made with the Commission:

1. Texas Utilities Electric Company

[Docket No. EL79–8–007]

Take notice that on August 14, 1996, Texas Utilities Electric Company tendered for filing revised copies to its August 4, 1995, compliance filing in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. MidAmerican Energy Company and MidAmerican Energy Holding Company

[Docket No. EC96–33–000]

Take notice that on August 26, 1996, MidAmerican Energy Company (MidAmerican) and MidAmerican Energy Holding Company (Holdings) (collectively, the Applicants), pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b and Part 33 of the Rules and Regulations of the Federal Energy Regulatory Commission, filed an application for authorization and approval of a proposed merger of IES Industries Inc. (Industries) with and into MidAmerican as the surviving corporation and public utility. In the alternative, Applicants request approval of a proposed merger of Industries with and into Holdings as the surviving corporation and holding company and, simultaneously therewith, a proposed merger of IES Utilities Inc. (IES), a public utility and wholly-owned subsidiary of Industries, with and into MidAmerican as the surviving corporation, public utility and wholly-owned subsidiary of Holdings. Approval of the alternative form of the proposed merger is requested in anticipation of the implementation of Applicants' holding company structure.

Applicant state that MidAmerican submitted a merger proposal to Industries on August 4, 1996. Under the proposal each share of Industries common stock would be exchanged, at the option of the Industries shareholder, for 2.346 shares of MidAmerican common stock (with a market value of $37.83 based on the August 16, 1996 closing price of MidAmerican common stock) in a tax-free exchange or $39.000 in cash, subject to a provision that if more than 40% of the total Industries shares elect to receive cash then a proration procedure agreed to by the merging companies would be applied and persons electing all cash would receive a part cash and part stock based upon such proration procedure. Concurrently with the proposed merger of Industries with and into MidAmerican, all of the common stock of IES will be canceled and IES will be immediately merged with and into MidAmerican.

Comment date: September 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. PSI Energy, Inc.

[Docket No. EL96–73–000]

Take notice that on August 23, 1996, PSI Energy, Inc. (PSI) tendered for filing a petition for waiver of the Commission's fuel adjustment clause

regulations to permit the recovery from its customers through its jurisdictional fuel adjustment clauses a jurisdictional share of the costs associated with a buy out of a long-term coal supply agreement pursuant to which PSI purchases 3 million tons of high-sulfur coal from Exxon Coal USA each year through the year 2002. PSI states that the buy out will provide numerous benefits to PSI's customers, including net cumulative savings of at least $30 million, and potentially up to $80 million on a net present value basis through the year 2002. The waiver is proposed to be made effective August 23, 1996.

Comment date: September 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. CRSS Power Marketing, Inc. RIG Gas Inc., Alliance Strategies, Enerserve, L.C. and Kiner-G Power Marketing, Inc.

[Docket Nos. ER94–142–010, ER95–480–006, ER95–1381–003, ER96–182–003, and ER96–1139–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On July 23, 1996, CRSS Power Marketing, Inc., filed certain information as required by the Commission's December 30, 1993, order in Docket No. ER94–142–000.

On July 31, 1996, RIG Gas Inc., filed certain information as required by the Commission's March 16, 1995, order in Docket No. ER95–480–000.

On August 5, 1996, Alliance Strategies, filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1381–000.

On July 29, 1996, Enerserve, L.C. filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–182–000.

On July 26, 1996, Kiner-G Power Marketing, Inc. filed certain information as required by the Commission's April 30, 1995, order in Docket No. ER96–1139–000.

5. Maine Public Service Company

[Docket Nos. ER96–370–001 and ER96–561–000]

Take notice that on August 21, 1996, Maine Public Service Company tendered for filing its compliance filing in the above-referenced dockets.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Cumberland Power, Inc.

[Docket No. ER96–2624–000]

Take notice that on August 21, 1996, Cumberland Power, Inc. tendered for filing an amendment to its August 5, 1996, filing in the above-referenced docket.

Comment date: September 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Power & Light Company

[Docket No. ER96–2625–000]

Take notice that on August 27, 1996, Wisconsin Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER96–2660–000]

Take notice that on August 6, 1996, Southern California Edison Company tendered for filing a corrected page 3 of Amendment No. 2 to the Integrated Operations Agreement with the Cities of Azusa, Anaheim, Colton, and Riverside.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Western Resources, Inc.

[Docket No. ER96–2701–000]

Take notice that on August 13, 1996, Western Resources, Inc. tendered for filing a change to its Open Access Transmission Tariff (Original Volume No. 5). Western Resources states that the change is to permit customers additional flexibility in consolidating loads in order to meet the requirement that schedules be stated in increments of 1,000 Kw. Western Resources has requested an effective date for the change of October 11, 1996.

A copy of this filing was served upon all parties that were served with a copy of Western Resources' Open Access Transmission Tariff filing made in compliance with FERC Order No. 888, all wholesale customers to whom Western Resources has provided transmission service since March 29, 1995, and to the state agencies that regulate public utilities in the states where those customers are located.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. USGen Power Services, L.P.

[Docket No. ER96–2710–000]

Take notice that on August 14, 1996, USGen Power Services, L.P. tendered for filing a letter stating that effective April 9, 1996 its membership with the Western Systems Power Pool became effective.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. MidAmerican Energy Company

[Docket No. ER96–2795–000]

Take notice that on August 23, 1996, MidAmerican Energy Company tendered for filing Firm Transmission Service Agreements with PanEnergy Power Services, Inc. (PanEnergy), dated July 30, 1996, WPS Energy Services, Inc. (WPS), dated July 30, 1996, and VTEC Energy, Inc. (VTEC), dated August 6, 1996, and Non-Firm Transmission Service Agreements with PanEnergy, dated July 30, 1996, WPS Dated July 30, 1996, and VTEC dated August 6, 1996, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER96–2806–000]

Take notice that on August 26, 1996, Arizona Public Service Company (APS) tendered for filing revised Exhibit I to Service Schedule A to the Service Agreement between APS and the City of Williams (APS–FERC Rate Schedule No. 192).

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Oklahoma

[Docket No. ER96–2815–000]

Take notice that on August 26, 1996, Public Service Company of Oklahoma (PSO) submitted for filing four Service Agreements, each dated June 1, 1996, establishing Duke/Louis Dreyfus LLC (Duke), Electric Clearinghouse, Inc. (ECI), Sonat Power Marketing (Sonat), and Valero Power Services Company (Valero) as customers under the terms of PSO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff). PSO also filed a Service Agreement, dated August 21, 1996, establishing The Southern Company (Southern) as a CST–1 customer.

PSO requests an effective date of July 27, 1996, and, accordingly, seek waiver of the Commission's notice requirements. Copies of this filing were served upon Duke, ECI, Sonat, Southern, Valero and the Oklahoma Corporation Commission.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Southwestern Electric Power Company

[Docket No. ER96–2816–000]

Take notice that on August 26, 1996, Southwestern Electric Power Company (SWEPCO) submitted four service agreements, each dated June 1, 1996 establishing Duke/Louis Dreyfus LLC (Duke), Electric Clearinghouse, Inc. (ECI), Sonat Power Marketing (Sonat), and Valero Power Services Company (Valero) as customers under the terms of SWEPCO also submitted a Service Agreement, dated August 21, 1996, establishing the Southern Company (Southern) as a CST–1 customer.

SWEPCO requests an effective date of July 27, 1996, and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Southern, Duke, ECI, Sonat, Valero, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Montaup Electric Company

[Docket No. ER96–2817–000]

Take notice that on August 26, 1996, Montaup Electric Company tendered for filing an executed Service Agreement for the sale of power and energy to Duke/Louis Dreyfus Energy Services under the rates, terms and conditions set forth in its FERC Electric Tariff Original Volume No. 4.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Upper Peninsula Power Company

[Docket No. ER96–2818–000]

Take notice that on August 26, 1996, Upper Peninsula Power Company (UPPCO), tendered for filing a proposed Power Service Agreement for sales of electricity to the City of Negaunee, Michigan. UPPCO states that the rates established in the Power Service Agreement for 1996 will result in a decrease in revenues from sales to Negaunee of approximately 10% annually. UPPCO has asked for waiver of the notice provisions of the Commission's Regulations in order to make the Power Service Agreement effective in accordance with its terms beginning October 1, 1996.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER96–2819–000]

Take notice that on August 27, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy), filed an executed Service Agreement between GPU and Morgan Stanley Capital Group, Inc. (MORGAN), dated August 7, 1996. This Service Agreement specifies that MORGAN has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.,* Docket No. ER95–276–000 and allows GPU and MORGAN to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of August 7, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Northern States Power Company (Minnesota)

[Docket No. ER96–2820–000]

Take notice that on August 26, 1996, Northern States Power Company (Minnesota)(NSP), tendered for filing Amendment No. 5 to the original Interconnection and Interchange Agreement between NSP and North Central Power Co., Inc. (NCP). This Amendment No. 5 replaces the existing Service Schedule A, System Power and the existing Service Schedule D, Supplemental Energy. This Amendment No. 5 also eliminates Service Schedule A–1 and Service Schedule D–1.

NSP requests that the Commission accept for filing this Amendment No. 5 effective as of September 1, 1996, and requests waiver of Commission's notice requirements in order for the Amendment to be accepted for filing on that date. NSP requests that this filing be accepted as a Amendment to Rate Schedule No. 459, the rate schedule for previously filed agreements between NSP and NCP.

Comment date: September 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Northern States Power Company (Minnesota)

[Docket No. ER96–2821–000]

Take notice that on August 26, 1996, Northern States Power Company (Minnesota)(NSP), tendered for filing Amendment No. 2 to the original Interconnection and Interchange Agreement between NSP and Northwestern Wisconsin Electric Company (NWE). This Amendment No. 2 replaces the existing Service Schedule A, System Power and the existing Service Schedule D, Supplemental Energy. This Amendment No. 2 also eliminates Service Schedule A–1 and Service Schedule D–1.

NSP requests that the Commission accept for filing this Amendment No. 2 effective as of September 1, 1996, and requests waiver of Commission's notice requirements in order for the Amendment to be accepted for filing on that date. NSP requests that this filing be accepted as an Amendment to Rate Schedule No. 451, the rate schedule for previously filed agreements between NSP and NWE.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER96–2822–000]

Take notice that on August 23, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER96–2823–000]

Take notice that on August 23, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Louisville Gas and Electric Company

[Docket No. ER96–2824–000]

Take notice that on August 23, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Entergy Services, Inc., under Rate GSS.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company

[Docket No. ER96–2825–000]

Take notice that on August 26, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Entergy Services, Inc. under Rate GSS.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Southern Company Services, Inc.

[Docket No. ER96–2827–000]

Take notice that on August 27, 1996, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) submitted a filing providing that the service agreements which had been filed with the Commission for non-firm service under their Point-to-Point Transmission Tariff will be considered as service agreements under their Open Access Transmission Tariff. In addition, SCS filed a service agreement for non-firm service between SCS, as agent for Southern Companies, and PanEnergy Power Services, Inc. This service agreement was executed under the PTP Tariff prior to its being superseded by the OAT Tariff and is to be considered a service agreement under the OAT Tariff.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. West Texas Utilities Company

[Docket No. ER96–2828–000]

Take notice that on August 27, 1996, West Texas Utilities Company (WTU) submitted for filing five Service Agreements, each dated June 1, 1996, establishing Delhi Energy Services Inc. (Delhi), Duke/Louis Dreyfus LLC (Duke), Electric Clearinghouse, Inc. (ECI), Valero Power Services Company (Valero) and Sonat Power Marketing (Sonat) as customers under the terms of WTU's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff). WTU also submitted a Service Agreement, dated August 21, 1996, establishing the Southern Company (Southern) as a CST–1 customer.

WTU requests an effective date of July 28, 1996 for the five service agreements dated June 1, 1996 and of August 21, 1996 for the Service Agreement with Southern and the revised Index. Accordingly, WTU seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Delhi, Duke, ECI, Valero, Sonat, Southern and the Public Utility Commission of Texas.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Central Power and Light Company

[Docket No. ER96–2829–000]

Take notice that on August 27, 1996, Central Power and Light Company (CPL) submitted five Service Agreements, dated June 1, 1996, establishing Delhi Energy Services Inc. (Delhi), Duke/Louis Dreyfus LLC (Duke), Electric Clearinghouse, Inc. (ECI), Valero Power Services Company (Valero) and Sonat Power Marketing (Sonat) as customers under the terms of CPL's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff). CPL also submitted a Service Agreement establishing The Southern Company (Southern) as a CST–1 customer.

CPL requests an effective date of April 30, 1996, for the Service Agreement with Valero, of July 3, 1996, for the Service Agreement with Delhi, of July 10, 1996, for the Service Agreement with ECI, of July 11, 1996, for the Service Agreement with Duke, of July 28, 1996, for the Service Agreement with Sonat and of August 21, 1996 for the Service Agreement with Southern. Accordingly, CPL seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Delhi, Duke, ECI, Valero, Southern, Sonat and the Public Utility Commission of Texas.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Washington Gas Energy Services, Inc.

[Docket No. ER96–2830–000]

Take notice that on August 27, 1996, Washington Gas Energy Services, Inc. tendered for filing an Application for Blanket Authorizations, Certain Waivers and Order Approving Rate Schedule.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Boston Edison Company

[Docket No. ER96–2831–000]

Take notice that on August 28, 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 Southern Electric Marketing, Inc. (Southern). Boston Edison requests that the Service Agreement become effective as of August 1, 1996.

Edison states that it has served a copy of this filing on Southern and the Massachusetts Department of Public Utilities.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Public Service Electric and Gas Company

[Docket No. ER96–2832–000]

Take notice that on August 28, 1996, Public Service Electric and Gas Company (PSE&G), tendered for filing agreements to provide non-firm transmission service to Baltimore Gas and Electric Company, and Cinergy Services, Inc., pursuant to PSE&G's Open Access Transmission Tariff presently on file with the Commission in Docket No. OA96–80–000.

PSE&G further requests waiver of the Commission's Regulations such that the agreements can be made effective as of August 27, 1996.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. Virginia Electric and Power Company

[Docket No. ER96–2833–000]

Take notice that on August 28, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Carolina Power & Light Company (CP&L) and Virginia Power under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to CP&L as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

31. Virginia Electric and Power Company

[Docket No. ER96–2834–000]

Take notice that on August 28, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between South Carolina Public Service Authority and Virginia Power under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to South Carolina Public Service Authority as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

32. Virginia Electric and Power Company

[Docket No. ER96–2835–000]

Take notice that on August 28, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between PanEnergy Power Services, Inc. (PanEnergy) and Virginia Power under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to PanEnergy as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

33. UtiliCorp United Inc.

[Docket No. ER96–2836–000]

Take notice that on August 28, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Sam Rayburn G&T Electric Cooperative, Inc.* The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Sam Rayburn G&T Electric Cooperative, Inc.* pursuant to the tariff.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Sam Rayburn G&T Electric Cooperative, Inc.*

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

34. UtiliCorp United Inc.

[Docket No. ER96–2837–000]

Take notice that on August 28, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with *Sam Rayburn G&T Electric Cooperative, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to *Sam Rayburn G&T Electric Cooperative, Inc.* pursuant to the tariff.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Sam Rayburn G&T Electric Cooperative, Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: September 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

35. Northwest Public Service Company

[Docket No. OA96–222–000]

Take notice that on August 28, 1996, Northwest Public Service Company tendered for filing a request for waiver of Part 37 of the requirements of the regulations of the Federal Energy Regulatory Commission.

Comment date: September 27, 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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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. 96–23136 Filed 9–10–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of February 5 Through February 9, 1996

During the week of February 5 through February 9, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: August 28, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision List No. 958

Personnel Security Hearings

Albuquerque Operations Office, 2/5/95, *VSO–0063*

An Office of Hearings and Appeals Hearing Officer issued an opinion in a personnel security case involving a contractor employee at Los Alamos National Laboratory. Based upon the record, the opinion recommends against granting the employee an access authorization. In particular, the opinion concludes that neither the testimony of lay witnesses nor generally applicable published material is sufficient to rebut the informed, first-hand medical testimony of two board certified DOE-consultant psychiatrists, i.e., that the individual is a habitual user of alcohol to excess without adequate evidence of rehabilitation or reformation.

Oak Ridge Operations Office, 2/7/96, *VSO–0059*

An Office of Hearings and Appeals Hearing Officer issued an opinion concerning an individual whose access authorization was suspended because he had abused family members and because he was diagnosed as alcohol dependent by a DOE consultant psychiatrist. The Hearing Officer found that incidents of child abuse by the individual demonstrated a lack of judgment and reliability. The Hearing Officer further found that in view of the fact that the individual continued to use significant amounts of alcohol in the face of family and health problems, he was alcohol dependent. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

Appeal

A. Victorian, 2/7/96, *LFA–0387*

A. Victorian (Victorian) filed an Appeal from a determination issued to him by the Deputy Assistant Secretary for Military Application and Stockpile Support of the Department of Energy (DOE/MA). In his Appeal, Victorian asserted that DOE/MA improperly withheld portions of a document identified as responsive to Victorian's Freedom of Information Act (FOIA) Request. In his Request, Victorian requested copies of all documents containing information pertaining to the DOE's FALCON program. In its determination letter, DOE/MA provided Victorian with one document in its entirety and a redacted copy of another document entitled ''DOE Reactor-Pumped Laser Research Program'' (Laser Document). DOE/MA stated in its determination letter that the withheld portions of the Laser Document contained classified information and were being withheld pursuant to Exemptions 1 and 3 of the FOIA. In his Appeal, Victorian asserted that the information withheld in the Laser Document had been inappropriately classified and should be provided to him. The DOE determined that almost all of the withheld information in the Laser Document had been properly withheld under Exemptions 1 and 3. However, the DOE also found that a small portion of the previously withheld material could now be declassified and released to Victorian. Consequently, the DOE granted, in part, Victorian's Appeal.

Requests for Exception

Martin Petroleum Corporation, 2/5/96, *LEE–0153*

Martin Petroleum Corporation filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA–782B, entitled ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' Martin argued that the amount of time it took the firm to prepare the required forms constituted a burden. However, the DOE determined that Martin was not suffering a special hardship, inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Pitcher Sales, Inc., 2/5/96, *VEE–0004*

Pitcher Sales, Inc., filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA–782B and Form EIA–863, entitled ''Resellers'/Retailers' Monthly Petroleum Product Sales Report'' and ''Petroleum Product Sales Identification Survey,'' respectively. Pitcher argued that filing these surveys was time consuming and onerous. However, the DOE determined that Pitcher was not suffering a special hardship, inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Arnold Heiden et al	RK272–368	02/05/96
Charles W. Combs et al	RK272–2671	02/05/96
County Line School District et al	RF272–95402	02/05/96
Crude Oil Supple. Refund Dist	RB272–66	02/05/96
Farmers Cooperative Assn. et al	RK272–2475	02/05/96
Gulf Oil Corporation/Aranki Gulf #1 et al	RF300–14990	02/05/96
Gulf Oil Corporation/Woods & Helton Gulf et al	RF300–18298	02/07/96
Gulf Oil Corporation/Zachary Gulf et al	RF300–13978	02/07/96
Harkins & Company et al	RK272–3209	02/07/96
Heyman Truck, Inc. et al	RF272–77606	02/05/96
Rogers Transportation Co., Inc	RK272–71	02/07/96
Floyd Mining Co., Inc	RK272–72	
American Jet Aviation	RK272–73	
W.V. Wall Legging et al	RK272–1141	02/07/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Allied Towing Corp	RF300–19784
Anchor Pointe Boat	RF300–18070
Balcones Gulf	RF300–20992
Bubb's Gulf	RF300–19967
C.M. Bullock Gulf	RF300–18186
Camargo Gulf	RF300–19741
Carolina Moving & Storage, Inc	RF300–18535
Chris A. Schaefer	VFA–0114
Dee's Fuel Service	RF304–15002
Florida East Coast Highway Dispatch	RF272–78177
Florida East Coast Railway Company	RF272–78175
J. Preston Moore	RF300–19923
Mac's ARCO	RF304–15040
Orsid Realty	RF272–78572

Name	Case No.
Piper Aircraft Corp.	RF300–19993
Radiant Oil Company	RF300–19988
Repetz Brothers ARCO	RF304–13134
Repetz Brothers ARCO	RF304–12910
Richard's Gulf Service	RF300–18709
Shahum Service Station	RF304–15060
Stratford ARCO	RF304–15050
Thor Lieungh	RF304–13536
Thrifty Oil Company	RF300–19922
Walt's ARCO	RF304–14667
Woodautomatic Gas Co	RF304–14996

[FR Doc. 96–23180 Filed 9–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of July 1 through July 5, 1996

During the week of July 1 through July 5, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: August 28, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision List No. 979

Week of July 1 through July 5, 1996

Appeals

Marlene Flor, 7/2/96, VFA–0175

The Department of Energy (DOE) issued a Decision and Order granting a Freedom of Information Act Appeal that was filed by Marlene Flor. In her Appeal, Ms. Flor contested the accuracy of a cost estimate provided to her by the DOE's Albuquerque Operations Office for processing her request for information under the Freedom of Information Act. In the Decision, the OHA found that Ms. Flor fell into the ''all other requesters'' category of FOIA requesters, and that she could not be charged for time spent by DOE employees in reviewing responsive documents for exempt material. The DOE therefore remanded her request to the Albuquerque Office for the formulation of a new estimate.

Tenaska Washington Partners II, L.P., 7/2/96, VFA–0176

Tenaska Washington Partners II, L.P. (TWP) filed an Appeal from a determination issued to it on May 21, 1996 by the Deputy Inspector General for Audit Services of the Office of Inspector General (IG) of the Department of Energy (DOE). In that determination, the IG partially denied a request for information that TWP filed pursuant to the Freedom of Information Act (FOIA). In its Appeal, TWP contends that the IG improperly withheld factual information pusuant to FOIA Exemption 5 and that the IG ''waived'' its ability to withhold a document pursuant to FOIA Exemptions 6 and 7. In considering the Appeal, the DOE confirmed that the redacted information does not contain any factual information and that the IG properly withheld the requested information pursuant to Exemption 5. The DOE also found that there is no merit to TWP's argument that the IG ''waived'' its ability to withhold a document pursuant to FOIA Exemptions 6 and 7. Accordingly, the DOE denied the appellant's request.

Refund Applications

Moore Brothers, 7/2/96, RR272–232

Moore Brothers was a trucking company that filed an Application for Refund in the Subpart V crude oil refund proceeding. In its original application (Case No. RF272–4527), Moore Brothers was denied a refund due to a lack of adequate documentation (January 26, 1990). On February 20, 1996, Moore Brothers filed a Motion for Reconsideration, requesting that the DOE reconsider its 1990 Decision. In the Motion for Reconsideration, Moore Brothers provided documentation adequate to substantiate the applicant's estimate of petroleum products consumed during the price control period. Accordingly, the Motion for Reconsideration was granted.

Perry Gas Processors, Inc./Alabama, RQ183–604, Charter Company/Alabama, RQ23–605, National Helium Corp./Alabama, RQ3–606, Coline Gasoline Corp./Alabama, 7/2/96, RQ2–607

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Alabama. Alabama requested that all remaining funds allocated to it in the Perry Gas Processors, Charter Company, National Helium Corp. And Coline Gasoline special refund proceedings be used to fund the state's Energy Conservation Loan Program. As of May 31,1996, the amount of those funds totaled $370,540 ($102,445 in principal and $268,095 in interest). The DOE found that Alabama's proposal would provide timely restitutionary benefits to injured consumers of refined petroleum products. Accordingly, Alabama's second-stage refund application was granted.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Allied-Signal, Inc	RF272–77990	07/01/96
Bronaugh Motor Express, Inc. et al	RF272–89203	07/05/96
Crude Oil Supple. Ref	RB272–00082	07/01/96

First Piedmont Corp. et al	RF272–89011	07/03/96
Gulf Oil Corporation/Dearman's Grovery & Service Stationet al	RF300–13743	07/02/96
Gulf Oil Corporation/Union Petroleum	RF300–17257	07/03/96
Kimbob, Inc. et al	RG272–00607	07/02/96
Montgomery Farmers Coop et al	RF272–94512	07/01/96
Virgin Air, Inc. et al	RF272–97969	07/03/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Allied Oil Company	RF339–14
Darigold, Inc.	RG272–368
Denholm Ship Management Ltd.	RG272–618
Heber Elementary	RF272–87065
Valley Materials Transport	RF272–98118

[FR Doc. 96–23181 Filed 9–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of April 8 through April 12, 1996

Office of Hearings and Appeals

During the week of April 8 through April 12, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: August 30, 1996.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Decision List No. 967

Week of April 8 through April 12, 1996

Appeals

A. Victorian, 4/11/96, VFA–0142

Dr. A. Victorian filed an Appeal from a denial by the Office of Defense Programs of a request for information that he filed under the Freedom of Information Act. Defense Programs responded by stating that it could neither confirm nor deny the existence of records responsive to Dr. Victorian's request. Based on its review of the nature of the request, and after considering the arguments that Dr. Victorian raised on appeal, the DOE determined that Defense Programs' Glomar response was appropriate. Accordingly, the Appeal was denied.

Petrucelli & Nadler, 4/11/96, VFA–0143

Petrucelli & Nadler (Petrucelli) filed an Appeal from a denial by the Oak Ridge Operations Office (DOE/OR) of the Department of Energy of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the documents requested by Petrucelli, information on all persons involved in radiation experiments performed on students at the Fernald State School in Massachusetts, could possibly have been located in a search of either another relevant DOE office or the DOE Archives. Thus, the Appeal was granted.

Personnel Security Hearing

Pittsburgh Naval Reactors Office, 4/12/96, VSA–0048

The Director of the Office of Hearings and Appeals issued an Opinion regarding a Request for Review of a Hearing Officer Opinion which recommended against restoring the level ''L'' access authorization of the Respondent seeking review of the matter. The Respondent had requested that the Director examine two issues: (1) Whether the Respondent's failure to file state and federal income taxes and pay miscellaneous local taxes raises a legitimate security concern; and (2) whether promises to repay loans to the Respondent and the Respondent's opportunity to satisfy his mortgage mitigate some of the DOE's security concerns. With regard to the first issued, after reviewing the record regarding the Respondent's tax situation and considering the Respondent's purported efforts to take corrective action with respect to some of his tax liabilities, the Director found no reason to disturb the Hearing Officer's Opinion. As for the second issue raised on review, the Director first opined that the new evidence suggesting that some of the Respondent's relatives might repay the Respondent some time in the future is not sufficient to overcome the security concern raised by the DOE regarding the Respondent's financial problems. Moreover, the Director observed that the Respondent has not demonstrated that he will be able to satisfy his entire mortgage debt within the time frame prescribed by the Respondent's lending institution. In sum, the Director refused to conclude that the new evidence tendered by the Respondent regarding his attempt to redress his mortgage problems mitigates the DOE's security concerns regarding the Respondent's judgement in managing his financial affairs.

After carefully considering the record, the Director opined that the Respondent's access authorization should not be restored.

Refund Applications

Charter Co./Mississippi—RQ23–601
Standard Oil Co. (Indiana)/
Mississippi—RQ251–602

OKC Corp./Mississippi, 4/11/96, RQ13–603

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Mississippi. Mississippi requested that all remaining funds allocated to it in the Charter Company, Standard Oil Co. (Indiana), and OKC Corp. Special refund proceedings be used to fund the state's Energy-Efficient, Affordable Housing and Energy in Agriculture Programs. As

of March 31, 1996, the allocation totaled $856,829 ($372,150 in principal and $484,679 in interest), but the allocation will be slightly higher at the time of disbursement due to interest earned between March 31, 1996 and the date of disbursement. The DOE found that Mississippi's proposal would provide timely restitutionary benefits to injured consumers of refined petroleum products. Accordingly, Mississippi's second-stage refund application was granted.

Gulf Oil Corp./Victoria Guernsey, Inc., 4/11/96, RF300–18821

The DOE issued a Decision and Order granting a refund application filed by Victoria Guernsey, Inc. in the Gulf Oil Corporation special refund proceeding. The DOE found that Victoria Guernsey made a reasonable demonstration that it purchased the claimed amount of Gulf product through two suppliers, Parton Oil Co. and Armour Oil Co. Because there was no affirmative evidence that either supplier absorbed the alleged Gulf overcharges, the DOE determined that Victoria Guernsey should be considered for a refund under the standards applicable to direct purchasers. Accordingly, the DOE granted Victoria Guernsey a $23,981 refund based on the medium range presumption of injury.

Valley Line Co., 4/12/96, RC272–337

The DOE issued a Decision and Order rescinding a refund granted to The Valley Line Co. in the Subpart V crude oil refund proceeding. The DOE was informed by The Valley Line that Chromalloy American Corporation, the former parent company of The Valley Line, had received a refund from the Rail & Water Transporters Escrow, one of the eight escrows established by the final Settlement Agreement in the Stripper Well Exemption Litigation. In order to receive a refund from a Stripper Well escrow, a claimant was required to waive its right and the rights of its affiliates to participate in any future refund proceeding based on crude oil overcharges. Therefore, The Valley Line was ineligible to receive a refund in the crude oil proceeding.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Gulf Oil Corporation/Ed & Ray's Gulf et al	RF300–13549	04/08/96
Heartland Co-op et al	RK272–03205	04/11/96
Hereford Independent School District et al	RF272–86302	04/09/96
Mueller Industries, Inc	RC272–00336	04/08/96
Rick Rush	RJ272–9	04/11/96
Ricky Timmons Estate et al	RK272–01106	04/08/96
Woods Research & Development Corp. et al	RK272–03328	04/11/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Air Ontario Limited	RF272–98755
Arundel Asphalt Products	RD272–74858
Arundel Asphalt Products, Inc.	RF272–74858
Bouchard Transportation Co., Inc.	RF272–74311
Bouchard Transportation Co., Inc.	RD272–74311
Dianna McNew	VFA–0146
Dispatch Distribution Line, Inc.	RF272–77995
Leotal, Inc. for Northeast Tool and Engineering	RG272–00102
Liberty Express	RF272–98705

[FR Doc. 96–23182 Filed 9–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of April 1 through April 5, 1996

During the week of April 1 through April 5, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: August 28, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision List No. 966

Week of April 1 through April 5, 1996

Appeal

David K. Hackett, 4/3/96, VFA–0135

The Department of Energy (DOE) issued a Decision and Order (D&O) denying a Freedom of Information Act (FOIA) Appeal that was filed by David K. Hackett. In the Decision, the DOE found that the Oak Ridge Operations Office properly applied Exemption 4 of the FOIA in withholding portions of one of the documents provided to Mr. Hackett. The DOE further found that the

search for responsive documents was adequate.

Personnel Security Hearing

Oak Ridge Operations Office, 4/5/96, VSA–0057

The Director of the Office of Hearings and Appeals issued an Opinion regarding an individual's request for review of a Hearing Officer's adverse decision regarding his eligibility for access authorization under the provisions of 10 C.F.R. Part 710. After considering the individual's arguments and the record, the Director found that: (i) the Hearing Officer had not showed bias and/or prejudice, (ii) the Hearing Officer had made a comprehensive, common-sense judgment, and (iii) the Hearing Officer did not incorrectly examine the case retrospectively to determine the possibility of coercion. Further, the Director upheld the Hearing Officer's refusal to give weight to letters submitted by the individual's former co-workers, under the circumstances presented in the case. Accordingly, the Director recommended that the individual's access authorization should not be reinstated.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Gulf Oil Corporation/White Brothers, Inc. et al	RF300–15269	04/04/96
Wisener Farms	RJ272–0010	04/04/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Chey Anthony Temple	VFA–0133
Howeard Sober, Inc.	RF272–77539

[FR Doc. 96–23183 Filed 9–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of March 4 Through March 8, 1996

During the week of March 4 through March 8, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: August 30, 1996.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Decision List No. 962

Week of March 4 Through March 8, 1996

Appeal

Kenneth H. Besecker, 3/4/96, VFA–0124

The Department of Energy (DOE) issued a Decision and Order granting a Freedom of Information Act Appeal that was filed by Kenneth H. Besecker. In his Appeal, Mr. Besecker contested the adequacy of the search for documents responsive to his request. In his request, Mr. Besecker sought access to the contract under which the investigation of a particular EEOC complaint was carried out. In his Appeal, Mr. Besecker contended that a portion of the contract called the ''Statement of Work'' was not included in the documents provided to him. In the Decision, the DOE found that there were two statements of work generated in connection with the contract in question, and that Mr. Besecker had been provided with only one. The DOE examined the second statement of work, found it to be responsive to the request and not exempt from mandatory disclosure under the FOIA, and released it to Mr. Besecker.

Personnel Security Hearings

Albuquerque Operations Office, 3/7/96, VSX–0020

Upon remand from the Director, an Office of Hearings and Appeals Hearing Officer issued an Opinion concerning the eligibility of an individual to hold an access authorization under 10 C.F.R. Part 710, ''Criteria and Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material. The DOE had charged that the individual had (i) deliberately omitted significant information (concerning use of illegal drugs) from a Personnel Security Questionnaire, (ii) used illegal drugs, and (iii) engaged in conduct showing that he was not reliable (due to use of illegal drugs to allay panic attacks and anxiety). The individual failed to testify at his hearing or provide any other evidence to rebut the derogatory evidence of the DOE. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

Pittsburgh Naval Reactors Office, 3/7/96, VSA–0041

Upon review, the Director, Office of Hearings and Appeals, concurred with the Hearing Officer's recommendation in Case No. VSA–0041 that access authorization not be restored to the appellant employee. The Director found that the employee had failed to mitigate valid security concerns raised by his pattern of financial irresponsibility.

Richland Operations Office, 3/7/96, VSA–0044

An individual whose access authorization had been suspended filed a request for review of a DOE Hearing Officer's recommendation against its restoration. The individual's access authorization had been suspended by the Department of Energy's (DOE) Richland Operations Office (Richland) upon its receipt of derogatory information indicating that the individual was a habitual user of alcohol to excess, used illegal drugs and had deliberately provided DOE security officials with false or misleading information.

Upon review, the individual claimed that he had been rehabilitated. The Director found that while he might have been rehabilitated from his prior substance abuse, he had not demonstrated the high degree of candor expected of a holder of a DOE access authorization. Accordingly, the Director recommended that the individual's security clearance not be restored.

Refund Applications

American Synthetic Rubber Corp., 3/7/96, RF272–61843; *RD272–61843*

The DOE issued a Decision and Order granting an Application for Refund filed by American Synthetic Rubber Corporation (ASR) in the crude oil overcharge refund proceeding. The DOE rejected the firm's claims for refunds based on purchases of butadiene, styrene, and gear compounds, finding that ASR had not shown that these products were purchased from a crude oil refinery. The DOE approved refunds for a number of other products purchased by the firm, which were products that were regulated during the refund period. These products included toluene, gasoline, staining and non-staining oils, and lubricating oils. ASR's total refund was $47,077. The DOE denied a Motion for Discovery filed by a consortium of States.

GS Roofing Products Co., Inc., 3/7/96 *RR272–213*

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by GS Roofing Products Co. in the Subpart V crude oil refund proceeding. GS Roofing had been granted an earlier refund based on all of the firm's purchases of petroleum products. GS later submitted additional information pertaining to other purchases after the filing deadline in the crude oil proceeding. Since these purchases were not included in its original claim and the firm did not have a good reason for omitting these purchases, the Motion was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

138 Scap, Inc. et al	RK272–01153	03/04/96
Crude Oil Supple. Ref. Dist.	RB272–0069	03/04/96
Department of the Army—Corps of Engineers, Memphis	RF272–92574	03/04/96
Elizabethtown Gas Co.	RF272–78134	03/04/96
Fergus High School #1 et al	RF272–96231	03/04/96
Gulf Oil Corporation/Corkle & Fox Gulf et al	RF300–15046	03/04/96
Gulf Oil Corporation/Hodgson Gulf et al	RF300–16666	03/04/96
Gulf Oil Corporation/Road Builders, Inc.	RF300–21831	03/07/96
James T. Bolton et al	RK272–2464	03/04/96
P & G Motor Freight, Inc	RF272–97085	03/07/96
Silveria Land Leveling	RK272–0450	03/04/96
Steinberger Oil Company	RF272–78164	03/04/96
Suburban Mobility Authority for Regional Transportaion et al	RK272–02957	03/07/96
The Gilbert Spruance Co. et al	RK272–03214	03/04/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Bass Petroleum Co., Inc	RF300–20361
Bob's Gulf	RF300–17570
Burns Concrete, Inc	VFA–0127
Dewey Jackson, Inc	RF300–20450
Ellsworth Freight Lines	RR272–228
Gulf Tri City Oil Company	RF300–20301
Hiram Castilleja S.S	RF300–15283
Larry's Gulf	RF300–13326
Larry's Gulf	RF300–13327
Mystic Fuel, Inc	RF300–20396
Parton Oil Company	RF300–16768
Yates Gulf No. 1	RF300–17883
Yates Gulf No. 2	RF300–17884

[FR Doc. 96–23184 Filed 9–10–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of February 12 through February 16, 1996

During the week of February 12 through February 16, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: August 29, 1996.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Decision List No. 959

Appeals

ITECH, Inc., 2/13/96, VFA–0113

ITech, Inc. filed an Appeal from a determination by the Western Area Power Administration (WAPA) under the Freedom of Information Act (FOIA). Itech sought a copy of a technical proposal that had been submitted to WAPA. WAPA released to ITech responsive documents, but withheld portions of the material requested pursuant to FOIA Exemption 4. In its Appeal, Itech objected to being charged $147.38 for WAPA's processing of the request. In considering the Appeal, the DOE found that the fees imposed were reasonable and necessary to recoup the cost of the processing the request. Accordingly, the Appeal was denied.

Knolls Action Project, 2/14/96, VFA–0112

The Knolls Action Project (KAP) filed an Appeal from a determination issued to it by the Department of Energy's Office of Naval Reactors (NR) on November 29, 1995. In that determination, NR provided information to KAP under the terms of a fee waiver originally sought in a request for information filed by KAP under the Freedom of Information Act (FOIA). In its Appeal, KAP asserted that NR did not provide two categories of information which it argued are encompassed by the scope of the fee waiver granted by the Office of Hearings and Appeals in a previous decision. In considering the Appeal, the Office of Hearings and Appeals found that NR properly provided relevant information within the scope of the fee waiver granted to KAP. Therefore, the Department of Energy denied KAP's Appeal.

Stand of Amarillo, Inc., 2/12/96, VFA–0115

On January 16, 1996, STAND of Amarillo, Inc. (STAND) filed an Appeal from a determination issued to it on December 5, 1995, by the FOIA Officer of the Department of Energy's Albuquerque Field Office. In that determination, the FOIA Officer stated that the legal files sought by STAND are ''records in the possession and control of Mason & Hanger, Silas Mason Co., Inc., and are therefore not 'agency records' subject to the provisions of the FOIA.'' In considering the Appeal, the DOE discovered the possible existence of ''agency records'' responsive to the appellant's request and subject to the FOIA. Accordingly, the DOE remanded the case to the FOIA Officer for a new search for responsive documents.

Williams & Trine, P.C., 2/10/96, VFA–0110

Williams & Trine, P.C. (Williams) filed an Appeal from a denial issued by the FOIA/Privacy Act Division (DOE/HQ) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the information requested by Williams, documentation of the shipment of hazardous or radioactive material from any DOE facility to any facility of Williams' client, Cotter Corporation, did not exist because no shipments of such material were ever made. Therefore, the Appeal was denied.

Personnel Security Hearing

Albuquerque Operations Office, 2/13/96, VSO–0061

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual to maintain a level ''Q'' access authorization under the provisions of 10 C.F.R. Part 710. The Hearing Officer found that the individual had consciously failed to submit federal income tax returns, thereby violating commonly understood federal tax requirements. The Hearing Officer further found that the individual had not chosen to resolve his disagreements with the Internal Revenue Service through the refund process, but instead had required the IRS to bring an enforcement action against him. The Hearing Officer also found that the individual's conduct in submitting a substitute form to his employer and thereby ending his withholding was also a violation of commonly understood tax requirements. Finally, the Hearing Officer found that the individual's recent contacts and correspondence with the IRS indicate that his actions and positions on tax matters have not been mitigated by any effort on his part to cooperate with the IRS and resolve his tax problems. The Hearing Officer concluded that the individual's conduct in these matters was not reliable or trustworthy for purposes of access authorization. Accordingly, the Hearing Officer recommended that the individual's access authorization, which had been suspended, should not be restored.

Refund Applications

Dayco Products, Inc., 2/15/96, RJ272–5; RC272–332

The DOE issued a Decision and Order in the crude oil refund proceeding concerning Dayco Products, Inc. (Dayco). In the course of processing supplemental crude oil refunds, the DOE discovered that Dayco had submitted one application on behalf of its headquarters and another application for a subsidiary. It was further discovered that the subsidiary's volume claim was duplicative of its headquarters claim but that both had been granted. Therefore, the DOE notified Dayco and Dayco's representative for the headquarters application that in the supplemental proceeding, the subsidiary would not receive a supplemental refund, and Dayco headquarters' volume would be reduced by the amount of duplicative gallonage. However, through an oversight, Dayco headquarters received an unreduced refund. In order to correct the error, the OHA determined that both the representative and Dayco were jointly and severally responsible for repaying the DOE the amount of $2,308. Further, the Dayco subsidiary's original refund was rescinded.

Perry Gas Processors, Inc./State of Missouri—RQ183–598

Vickers Energy Corp./State of Missouri—RQ1–599

Coline Gasoline Corp./State of Missouri, 2/15/96, RQ2–600

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Missouri. Missouri requested that all remaining funds allocated to it in the Perry Gas Processors, Vickers Energy, and Coline Gasoline special refund proceedings be used to fund the state's low-income home weatherization assistance program. As of January 31, 1996, the allocation totaled $264,409 ($92,564 in principal and $171,845 in interest), but the allocation will be slightly higher at the time of disbursement due to interest earned between January 31, 1996 and the date of disbursement. The DOE found that Missouri's proposal would provide timely restitutionary benefits to injured consumers of refined petroleum products. Accordingly, Missouri's second-stage refund application was granted.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

American Hoist & Derrick Co	RK272–01851	02/13/96
Crude Oil Supple. Ref. Dist	RB272–00061	02/13/96
Crude Oil Supple. Ref. Dist	RB272–00065	02/13/96
Frank Thompson Transport, Inc	RR272–230	02/15/96
Gulf Oil Corporation/Corey Bros. et al	RF300–18002	02/15/96
Gulf Oil Corporation/Goodhew Ambulance Co. et al	RF300–16556	02/15/96
Kraft Food Service et al	RK272–01156	02/13/96
Lahoma-Imo Farmers Co-op et al	RF272–99108	02/12/96
Moore's Inc	RF272–78065	02/12/96
Newport Hospital et al	RF272–86523	02/12/96
The BOC Group, Inc	RF272–72861	02/15/96
Airco Industrial Gases	RF272–75518	
Theisen Supply, Inc	RF272–77994	02/12/96
Transportation & Material Handling Div. of Natl Steel	RF272–78119	02/12/96
Vigoro Industries, Inc. et al	RK272–1627	02/15/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Adeline Blumhorst	RK272–2422
Carmany's Gulf	RF300–16655
Crosstown Arco	RF304–15178
East Valley Arco	RF304–15182
Eaton Bulk Plant	RF304–15183
Franklin Park Gulf	RF300–16777
Gasp Realty Assoc	RR272–215
Goval Realty Assoc	RR272–216
Jeffrey R. Leist	VFA–0119
Joe Manchac Grocery and Service Station	RF300–16806
Kew Towers Co	RR272–217
Ohio Barge Lines, Inc	RF272–91401
Paul Yesik	RF300–16766
Point Bay fuel, Inc	RF304–15041
Rubel Fuel	RF304–15064
Shacklette Oil Co	RF304–15068
Spag Realty Assoc	RR272–214
Spicer Gas Co., Inc	RF304–15067
Transco, Inc	RF272–98658
Tri State Gas and Appliance Co., Inc	RF300–16600
V.G. Mullins	RF300–16968
Ward Air Canada	RF300–18145
Warrior & Gulf Navigation Co	RF272–91402
Zapata Coal	RF300–16830

[FR Doc. 96–23185 Filed 9–10–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5608–5]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of proposals for and request for comment on Project XL.

SUMMARY: EPA is today augmenting its continuing solicitation of proposals for the Project XL (excellence and leadership) program with a specific request for proposals that feature innovative environmental technologies.

DATES: The period for submission of proposals began on May 23, 1995 with the publication of a solicitation in the Federal Register at (60 FR 27282) [FRL–5197–9]. It is an open solicitation with no set end date, and project proponents may submit more than one project proposal. The period for submission of comments on aspects of the program discussed here shall extend for at least sixty (60) days from the date of publication of this notice. However, as the issues discussed in this notice will not necessarily be resolved by these comments, the docket will remain open to additional comments until further notice.

ADDRESSES: Project proposals and all comments should be sent to: Regulatory Reinvention Pilot Projects, FRL–5197–9, Water Docket, Mail Code 4101, US EPA, 401 M Street, S.W., Washington, DC 20460. The docket accepts no faxes. Project proponents should submit four (4) copies of all materials sent to the docket. In addition to providing general information about the proposed project, project proponents are encouraged to comment on the relationship of their proposals to the criteria for project selection described in the Federal Register on May 23, 1995 [FRL–5197–9] and on November 1, 1995 [FRL–5322–9]. Proponents of projects are invited, but by no means required, to submit other useful materials in paper or other audio/visual or electronic formats.

FOR FURTHER INFORMATION CONTACT: For information on projects featuring environmental technology, contact Pasky Pascual. For information on Project XL and all other aspects of this notice contact Christopher Knopes. Both can be reached at the following address: Emerging Sectors and Strategies Division; United States Environmental Protection Agency; 3202 Mall; 401 M Street, S.W.; Mail Code 2129; Washington, DC 20460. The telephone number for the Division is (202) 260–2220. The facsimile number is (202) 401–6637. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the internet at ''http:/www.epa.gov/ProjectXL'' and via an automated fax-on-demand menu at (202) 260–8590.

SUPPLEMENTARY INFORMATION:

Background

Since publication of the Clinton Administration's Bridge to a Sustainable Future in April, 1995, the Federal government has been committed to strengthening incentives for technological innovation within its regulatory, permitting, compliance and enforcement programs. EPA's regulatory reinvention efforts—replacing prescriptive regulations with performance-based environmental management strategies, building partnerships, setting priorities based on sound science, cutting red tape, improving access to environmental information, ensuring better accountability, compliance and enforcement—are part of this commitment. Project XL, created by President Clinton on March 16, 1995, as part of his Reinventing Environmental Regulation initiative, provides a limited number of companies and other regulated entities an opportunity to test performance-based alternatives to current requirements that achieve superior environmental performance, cost savings, and greater accountability to the local community. EPA has committed to implement a target of 50 XL projects in four categories: XL for Facilities, XL for Sectors, XL for Federal Facilities and XL for Communities. Solicitation of proposals in the first three XL categories was announced in the Federal Register on May 23, 1995 [FRL–5197–9]. A similar notice for XL for Communities proposals appeared on November 1, 1995 [FRL–5322–9]. EPA has received over 50 XL proposals, has selected 15 for project development, and on July 8, 1996, approved its first XL Final Project Agreement.

In an effort to improve the potential demonstration value of XL projects, EPA is for the first time issuing an XL ''request for proposals'' (RFPs) of a specific type—in this case proposals that encourage innovative environmental technologies. The Agency will periodically issue additional XL RFPs for other kinds of projects that in more specific ways address the basic XL criteria laid out in the May 23, 1995, Federal Register. XL RFPs should provide a sense of the types of proposals that are of greatest interest to EPA and other participants in national dialogue on the future of environmental policy. With this notice, EPA brings together more formally its commitment to strengthen incentives for innovative environmental technologies and its commitment to test alternative environmental management strategies in Project XL. This notice solicits proposals for the demonstration of innovative technologies in the XL program.

Areas of Greatest Interest

Environmental technologies include any technology that helps control, monitor, reduce, or remediate the environmental impact associated with economic activity. This definition covers products used for exclusively environmental purposes as well as infrastructural changes or products that ultimately minimize the impacts of industry and federal facilities on the environment. Examples of such technologies include:

- Equipment that controls, mitigates, or remediates environmental pollution;
- Tools that improve the ability to monitor environmental conditions, emissions and discharges more accurately and more frequently and that make this information available and understandable to communities and the general public;
- Information systems that facilitate the collection, analysis, and distribution of environmental data in a way that optimizes economic and environmental performance; and
- operational or process changes that reduce material inputs, reduce the use of toxic substances, or reduce energy use while maintaining equal or better productivity levels and environmental protection.

How Can An XL Project Help?

An XL project can spur the development of innovative environmental technology by.

- Removing a specific regulatory or other barrier to the development, testing or deployment of a technology;
- Creating a general regulatory climate for a facility (e.g., a performance-based system with ambitious targets) that provides incentives for innovation;
- Fostering a test-bed for monitoring requirements that go beyond or are different from conventional requirements that favor existing measurement concepts;

• Creating cost savings through regulatory efficiency that are reinvested in innovative technology development and deployment.

XL provides the climate in which technical innovation can thrive and flourish. A company or federal facility seeking to develop processes that minimize the impact of its activities and products or other technologies that help in the monitoring of these impacts may be thwarted by a legal requirement, regulatory infrastructure, policy or other procedure that treats individual environmental problems in isolation, or that imposes a particular solution based on prior technological constraints. Project XL can provide an innovative industrial or federal facility with the site-specific flexibility needed to surmount these barriers.

By facilitating discussions among various stakeholders during project development, Project XL provides the innovative industrial or federal facility with a forum to dialogue with technology suppliers, regulators, users and customers to exchange information and generate ideas that simulate new approaches to environmentally-responsible manufacturing.

EPA is soliciting proposals that prototype technological applications that lower compliance costs, that minimize the risk of environmental liability, or that enhance operational flexibility. By demonstrating the competitive advantage that facilities obtain through the use of innovative environmental technologies, Project XL can strengthen the demand for those technologies while allowing the collective wisdom or individual facilities to determine which technology options best optimizes the twin objectives of economic and environmental performance.

Procedures for Application

Basic procedures for submission and review of an XL for Facilities, Sectors, or Federal Facilities proposal and for submission of an XL for Communities proposal are contained in the May 23, 1995, and November 1, 1995, Federal Register, respectively. Additionally, project proponents are encouraged to state why they believe the projects they are submitting are particularly innovative. EPA intends to work cooperatively with project proponents to develop and refine acceptable approaches. At the same time, the Agency and its partners in the State and Tribal environmental agencies must retain the ultimate authority to select projects based on a qualitative consideration of the project relative to XL selection criteria. Moreover, given the limited and pilot nature of XL, projects that satisfy many or all of the criteria may nonetheless not be selected if, in the Agency's judgment, other proposed projects better serve the objectives of the program. Moreover, no person is required to submit a proposal or obtain approval as a condition of commencing or continuing a regulated activity. Accordingly, there will be no formal administrative review available for proposals that are not selected, nor does EPA believe there will be a right to judicial review.

Supplementary Information on Process Streamlining

Project XL, since its inception on March 16, 1996 by President Clinton, has been implemented by a process developed by EPA with the help of potential sponsors, stakeholders, and state and tribal environmental agencies. This process was outlined in the May 23, 1995, Federal Register and further explained in EPA's December 1, 1995, draft Principles for Development of Project XL Final Project Agreements. That process has five stages: solicitation, selection, development, implementation and evaluation. Today EPA is announcing its intent to revise the process to respond to many concerns voiced during the initial round of project negotiations. While the Agency is not yet prepared to provide a detailed account of these changes, EPA believes is important to signal our willingness to make some mid-course corrections designed to streamline and improve the XL process. These changes will be aimed at several different aspects of the process, but will include:

• Improving the quality of XL project proposals by asking project proponents to include a clear statement how the proposal meets the XL criteria, including a discussion of the regulatory flexibility requested, the environmental benefits to be achieved, and the proposed plan for stakeholder involvement;

• Defining some principles of superior environmental performance to consider when developing proposals;

• Defining some principles for including local community members and other stakeholders in the project development process;

• Management of the XL program and the project development process;

• Strengthening internal EPA management of the XL program and the project development process;

• Promoting internal cultural change among regulators toward a new, more participatory approach to environmental protection; and

• Providing national and local level stakeholders with expanded opportunities for participation and input through greater access to information and resources.

Dated: September 6, 1996.

Jon Kessler,

Acting Assistant Administrator for Policy, Planning, and Evaluation.

[FR Doc. 96–23218 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTON AGENCY

[FRL–5607–8]

Ozone, Particulate Matter and Regional Haze

Implementation Programs Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: On September 11, 1995 (60 FR 47172), the EPA announced the establishment of the Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee under the Clean Air Act Advisory Committee (CAAAC). The CAAAC was established on November 8, 1990 (55 FR 46993) pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. app I). The purpose of the Subcommittee is to provide advice and recommendations on integrated approaches for implementing potentially new national ambient air quality standards (NAAQS) for ozone and particulate matter, as well as a regional haze program.

OPEN MEETING: Notice is hereby given that the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs will hold its next public meeting on Thursday, September 26, 1996 (from 2:00 p.m. to 7:00 p.m.) and Friday, September 27 (from 8:00 a.m. to 2:00 p.m.).

ADDRESSES: The public meeting will be held at the Norfolk Waterside Marriott, 235 East Main Street, Norfolk, Virginia 23510.

FOR FURTHER INFORMATION CONTACT: For further information on the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs, please contact Mr. William F. Hamilton, Designated Federal Officer, at 919–54l–5498, or by mail at U.S. EPA, Office of Air Quality Planning and Standards,

MD–12, Research Triangle Park, NC 27711. When a draft agenda is developed, a copy can be downloaded from the Ozone/Particulate Matter/Regional Haze FACA Bulletin Board, which is located on the Office of Air Quality Planning and Standards Technology Transfer Network (OAQPS TTN) or by contacting Ms. Denise M. Gerth at 919–54l–5550.

Dated: August 29, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards

[FR Doc. 96–23221 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5608–6]

Notice of Public Meetings on Drinking Water Issues

Notice is hereby given that the Environmental Protection Agency (EPA) is holding a two-day public meeting on September 26 and 27, 1996, for the purpose of informal information exchange on issues related to the development of rules to address microbial contaminants and disinfectants/disinfection by-products in drinking water. Topics at the meeting will include: (1) a discussion of Microbial/Disinfection By-products (M/DBP) policy alternatives, and (2) a review of current and future health effects research for disinfectants/disinfection by-products. The meeting will be preceded by a one-day technical meeting on September 25, 1996, to discuss identification of data sub-sets to be developed from sample collection and analytical activities under the Information Collection Rule issued on May 14, 1996. These will be used to help support future M/DBP rule development.

EPA is inviting all interested members of the public to participate in these and subsequent information exchange meetings on microbial contaminants and disinfectants/disinfection by-products in drinking water. The September 26 and 27 meeting will be held at the Center for Environmental Dispute Resolution (RESOLVE), 2828 Pennsylvania Avenue, Northwest, Washington, D.C. A limited number of phone lines will be available for this meeting to enable attendance by teleconference. The technical meeting on September 25 will also be held in Washington D.C. at the Sheraton City Center Hotel, 1143 New Hampshire Avenue, Northwest. Because of limitations on conference room seating, members of the public who are interested in attending on any of these days are requested to contact Elizabeth Corr of EPA's Office of Ground Water and Drinking Water at (202) 260–8907 prior to the day of the meeting.

Members of the public who wish to be notified of future meetings should also contact Elizabeth Corr.

Dated: September 6, 1996.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 96–23219 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5607–9]

Extension of Comment Period for the Notice of Availability and Request for Comments on the Permit Improvement Team's Concept Paper on Environmental Permitting and Task Force Recommendations

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and request for comments; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period for the Permit Improvement Team's Concept Paper on Environmental Permitting and Task Force Recommendations, which appeared in the Federal Register on July 19, 1996 (see 61 FR 37744). The public comment period was to end on September 3, 1996. The purpose of this notice is to extend the comment period an additional 30 days beyond that, to end on October 3, 1996. This extension of the comment period is provided to allow commenters an opportunity to comment further on the concept paper.

DATES: EPA will accept public comments on the concept paper and recommendations until October 3, 1996. Comments postmarked after the close of the comment period will be stamped ''late.''

ADDRESSES: The public must send an original and two copies to Docket Number F–96–PT2A–FFFFF, located at the RCRA Docket. The official address is: RCRA Information Center, U.S. Environmental Protection Agency (5035W), 401 M Street, S.W., Washington, D.C. 20460. Although the mailing address for the RCRA Information Center has not changed, the office was physically moved in November 1995. Therefore, hand-delivered comments should be taken to the new address: 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. (Also see the section under ''Supplementary Information'' regarding the paperless office effort for submitting public comments.) The RCRA Information Center is open for public inspection and copying of supporting information from 9:00 am to 4:00 pm Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: Lance Miller, PIT Executive Director at Permits Improvement Team, Mail Stop 100, 2890 Woodbridge Ave., Edison, NJ 08837, phone: (908) 321–6782.

SUPPLEMENTARY INFORMATION:

Availability of Document

The PIT Concept Paper on Environmental Permitting and Task Force Recommendations can be obtained via the Internet at 'gopher://gopher.epa.gov' or 'http://www.epa.gov'. After reaching either of these Internet sites, locate the search function and type 'Permit Improvement Team' to locate the Concept Paper on Environmental Permitting and Task Force Recommendations.

Background Information

The PIT was established in July 1994 and is composed of representatives from EPA Headquarters and Regional offices and state, tribal and local permitting agencies. The PIT held numerous stakeholder meetings to solicit input on the most critical permitting issues as well as to obtain feedback on the PIT's initial recommendations. Although significant input on the PIT's recommendations has been received through the stakeholder meetings, a final opportunity to review and comment on the recommendations is being provided to ensure that all stakeholders have an opportunity to participate in the development of significant change in direction for permitting programs that is being contemplated. The Agency intends to use the concept paper on environmental permitting as an overall guide for reforms to permit programs, where appropriate. The individual recommendations contained in the document will be considered by program and regional offices as they develop specific plans in response to the concepts discussed in the PIT recommendations. These plans will include providing assistance to states

and tribes that choose and implement appropriate permit reform. As specific program changes are developed, opportunities for stakeholder input will be provided. It is anticipated that stakeholders will use the final concept paper, as well as other relevant documents and authorities such as applicable statutes, in their review of specific permit program changes. This will help to provide all stakeholders with a common context when commenting on these specific changes. For some permitting programs, minor changes may be needed to implement many of the concepts specified in the document; while other programs may require more significant modifications. Some of these modifications may also require changes to statutes and regulations and could necessitate technical research and analysis prior to revising permit programs to conform with the recommendations. Therefore, the time-frame to implement the recommendations could range from several months to many years. The Agency notes that the current permitting systems were developed over the last three decades, and that changes need to be made within the existing systems while they evolve to the approach envisioned in the concept paper. Furthermore, as implementation proceeds, it is likely that some of the concepts will require revision based on new information.

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ACSII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. Rather, EPA is experimenting with this procedure as an attempt to expedite our internal review and response to comments. This expedited procedure is in conjunction with the Agency ''Paperless Office'' campaign.

James Mathews,

Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[FR Doc. 96–23220 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5604–7]

State Program Requirements; Approval of Application by Louisiana To Administer the National Pollutant Discharge Elimination System (NPDES) Program; Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Approval of the Louisiana Pollutant Discharge Elimination System Under CWA.

SUMMARY: On August 27, 1996, the Regional Administrator for the Environmental Protection Agency, Region 6, approved the application by the State of Louisiana to administer and enforce the National Pollutant Discharge Elimination System (NPDES) for regulating discharges of pollutants into waters within the state. The authority to approve state programs is provided to EPA in Section 402(b) of the Clean Water Act (CWA). The Louisiana Pollutant Discharge Elimination System (LPDES) program will operate in lieu of the EPA administered NPDES program pursuant to Section 402 of the CWA. In making its decision, EPA has considered all comments and issues raised during the publicly noticed comment period.

EFFECTIVE DATE: Because CWA § 301(a) prohibits new discharges until they are authorized by an NPDES permit, this action is effective August 27, 1996 to avoid futher suspension of permitting actions in Louisiana and the unnecessary burden such a suspension would impose on new dischargers.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Caldwell at U.S. EPA, Region 6, Water Quality Protection Division, 1445 Ross Avenue, Dallas, Texas 75202, or by calling (214) 665–7513, or electronically at CALDWELL.ELLEN@EPAMAIL.EPA.GOV; or Ms. Barbara Bevis at the Office of Water Resources, LDEQ, P.O. Box 82215, Baton Rouge, Louisiana, 70884–2215, or by calling (504) 765–2740, or electronically at BARBARA__B@DEQ.STATE.LA.US.

SUPPLEMENTARY INFORMATION: Louisiana's application was described in the Federal Register (61 FR 15258) on April 5, 1996, in which EPA requested comments. Notices of EPA's proposal to approve the LPDES program were also published on April 8, 1996, in The Advertiser (Layfayette, La.); The Alexandria Daily Town Talk (Alexandria, La.); The Shreveport Times (Shreveport, La.); The Times-Picayune (New Orleans, La.); The Lake Charles American Press (Lake Charles, La.); The Courier (Houma, La.); The News Star (Monroe, La.); and The Baton Rouge Advocate (Baton Rouge, La.). Copies of the application were made available at the addresses below and could also be purchased from the state for the cost of $108.00. EPA provided copies of the public notice to permitted facilities, Indian tribes, and other federal and state agencies. '

Both a public meeting and hearing were held in Baton Rouge, Louisiana, on May 9, 1996. The meeting (provided as an informal question and answer session), began at 3:00 pm and ended at 4:30 pm. The hearing started at 7:00 pm and lasted until 8:17 pm. Oral comments were recorded during the hearing and entered into EPA's official record. Written comments were accepted by EPA through May 27, 1996 (the original comment period, which was to end May 20, 1996, was extended to May 27, 1996, at the request of commenters). EPA's response to the issues raised during the comment period are contained in the Responsiveness Summary contained in this notice. A copy of EPA's decision and its Responsiveness Summary has been sent to all commenters and interested parties.

The LPDES program description and agency agreements continue to be available to the public at the following internet address: http://WWW.DEQ.STATE.LA.US—select Office of Water Resources.

Copies of the final program documents for the LPDES program are also available to the public during normal business hours, Monday through Friday, excluding holidays, at:

EPA Region 6, 12th Floor Library, 1446 Ross Avenue Dallas, Texas 75202, (214) 665–7513

LDEQ Headquarters, 7290 Bluebonnet, Baton Rouge, LA 70884–2215, (504) 765–2740

LDEQ Acadiana Regional Office, 100 Asma Blvd., Suite 151, Lafayette, LA 70508, (318) 262–5584

LDEQ Bayou Lafourche Regional Office, 104 Lococo Drive, Raceland, LA 70394, (504) 532–6206

LDEQ Capitol Regional Office, 11720 Airline Highway, Baton Rouge, LA 70817–1720, (504) 295–8583

LDEQ Kisatchie Central Regional Office, 402 Rainbow Drive, Bldg. 402, Pineville, LA 71360, (318) 487–5656

LDEQ Northeast Regional Office, 804 31st Street, Suite D, Monroe, LA 71211–4967, (318) 362–5439
LDEQ Northwest Regional Office, 1525 Fairfield, Room 11, Shreveport, LA 71101–4388, (318) 867–7476
LDEQ Southeast Regional Office, 3501 Chateau Boulevard-West Wing, Kenner, LA 70065, (504) 471–2800
LDEQ Southwest Regional Office, 3519 Patrick Street, Room 265A, Lake Charles, LA 70605, (318) 475–8644

The Regional Administrator has notified the State and notice of EPA's final decision has been published in the same newspapers in which the public notice of the proposed program appeared (listed above). As of August 27, 1996, EPA suspended issuance of NPDES permits in Louisiana (except for those permits which EPA retained jurisdiction as specified below). The State's LPDES program will implement federal law and operate in lieu of the EPA-administered NPDES program. EPA does, however, retain the right to object to LPDES permits proposed by LDEQ, and if the objections are not resolved, to issue the permit itself.

Scope of the LPDES Program and Clarifications on EPA Authority and Oversight

All NPDES files under the jurisdiction of LDEQ will be transferred from EPA to the state within 30 days. NPDES permits under LDEQ's jurisdiction will become state administered LPDES permits and will be reissued (upon expiration) or modified by the state agency. All permits brought to public notice by LDEQ after this authorization and under its LPDES authority will be LPDES permits providing NPDES coverage to those dischargers. [NOTE: Until otherwise notified by the State, all Notices of Intent and Termination (NOIs and NOTs) for coverage under EPA's general permits for storm water (only) should continue to be sent to the EPA NOI processing center (4203), 401 M Street, S.W., Washington, D.C. 20460. Discharge Monitoring Reports (DMRs) under those general permits should be sent to LDEQ.]

A. EPA Authority

Louisiana's LPDES program generally covers all discharges of pollutants subject to the federal NPDES program, with some exceptions and clarifications. EPA will retain the permitting authority for the following discharges in the State of Louisiana:

1. Municipal Sewage Sludge: LDEQ has not elected to not seek authorization for the municipal sewage sludge regulatory program at this time. EPA will thus continue to regulate municipal sewage sludge disposal in Louisiana in accordance with Section 405 of the Act and 40 CFR Part 503.

Since EPA desires all treatment works treating domestic sewage (TWTDS) in the State of Louisiana to be covered under a permit, EPA is currently preparing a draft general permit to cover eligible TWTDS. TWDTS includes facilities generating sewage sludge or otherwise effectively controlling the quality of sewage sludge or the manner in which it is disposed.

Enforcement for sludge management and reporting authority as defined by 40 CFR Part 503 will be retained by EPA Region 6 until such time as the State of Louisiana is authorized to run the sludge disposal program.

2. Jurisdiction over Discharges in Indian Country: As noted in EPA/LDEQ MOA (§ II.C.2.b, at page 7), LDEQ does not seek to administer the LPDES program in Indian Country. EPA will thus issue NPDES permits for discharges in Indian Country within the geographic boundaries of Louisiana, i.e., the reservations of the Chitimacha, Coushatta, and Tunica-Biloxi tribes. Until they are deleted by regulatory amendment, the references to ''an Indian tribe or an authorized Indian tribal organization'' in the definition of ''municipality'' and to ''an Indian tribe'' in the definition of ''state'' at L.A.C. 33:IX.2313 should thus be regarded as mere surplusage. They do not suggest that LDEQ will seek to regulate discharges from POTWs or other facilities on Indian lands in Louisiana. The LDEQ will work with EPA Region 6 to identify any potential discrepancies having to do with Indian Lands or Tribes, and will address them in the first revision to the LPDES regulations.

3. Discharges to U.S. Waters Beyond the Territorial Seas: EPA retains the permanent NPDES authority for discharges seaward of the 3 mile territorial seas limit and within the jurisdiction of the United States. Many of these discharges are from oil and gas exploration and production operations in the Outer Continental Shelf area of the Western Portion of the Gulf of Mexico, currently regulated under NPDES general permit No. GMG290000.

4. Discharges from Cleanup of Petroleum UST Systems: In the July 22, 1996, Federal Register, EPA proposed a general NPDES permit (LAG280000) authorizing discharges resulting from the implemention of Corrective Action Plans for the cleanup of Petroleum UST Systems in Louisiana. A Petroleum UST System is an undergound storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oil, etc. In accordance with the EPA/LDEQ MOA, EPA will retain authority to issue the final decision on this permit. Once the permit is final it will be transfered to the State for administration.

5. Status of applications, proposed permits, contested permit actions, and unresolved EPA enforcement actions: Except for the files listed below, all pending NPDES permit applications and issued NPDES permits under jurisdiction of LDEQ will be transferred to Louisiana within 30 days of the approval of the LPDES program. In accordance with the signed Memorandum of Agreement, EPA will retain temporary authority for all proposed permits until final issuance; permits contested under evidentiary hearing proceedings until those are resolved; and compliance files and authority for all open enforcement orders until such time as LDEQ has issued parallel orders or EPA has resolved the enforcement action.

Proposed Permits: EPA shall retain permit decision-making authority over permits which are currently public notice until they are final issued and effective. Once these permits are effective, they will be transferred to LDEQ unless contested. The permit files will be transferred to the state as the permits become effective.

Contested Permit Actions: EPA will retain permits for which variances or evidentiary hearings have been requested until such time as they are resolved. As each request is resolved, EPA will notify LDEQ and transfer jurisdiction of the permit to LDEQ. EPA shall also maintain enforcement lead over discharge permits with a pending evidentiary hearing request; these will be transferred to the state upon resolution of the issue for which the hearing was requested.

Enforcement Actions: EPA Region 6 will retain primary enforcement authority after the date the LPDES program is approved for a number of facilities which have unresolved compliance issues. These permittees will continue to report to EPA on all compliance issues including regular submittals of Discharge Monitoring Reports for their NPDES permits. Authority for these permits can subsequently be transferred to the State one of two ways: 1) The outstanding compliance issue can be resolved and the permittee has returned to compliance, or, 2) the State can issue a parallel administrative action to address the outstanding compliance issue. As a practical consideration, enforcement authority for municipal or parish

facilities that are operated by the same governmental entity will not be transferred to the State as long as one of its major facilities has an unresolved compliance issue. NOTE: EPA in coordination with LDEQ will inform *all* permittees in writing of their reporting responsibilities. Permittees should continue to report as specified by both their State and Federal permits until otherwise notified.

B. Penalty Policy Status and Regulation Corrections

In a letter dated March 29, 1996, J. Dale Givens, LDEQ Secretary, committed to developing and promulgating a penalty policy by April 1, 1997. The State is in the process of drafting the policy. EPA will work with the State in an effort to assure that policy is consistent with Federal policies.

The definition of ''Waters of the State'' is not included in the definition section of the LPDES regulations. The definition of ''Waters of the State'' for LPDES purposes is in La. R.S. 30:2073(7). This definition will be added to the LPDES regulations at the first opportunity.

C. Consultation Agreements Under the Endangered Species Act and the National Historic Preservation Act

1. Agreement with U.S. Fish and Wildlife Service: Consultation under Section 7 of the Endangered Species Act has been completed on EPA's approval of the LPDES program. An agreement has been reached between EPA Region 6 and the U.S. Fish and Wildlife Service (FWS) to provide EPA oversight of LPDES permit actions with respect to federally listed species. The conditions of the agreement signed by EPA and FWS are listed below:

a. EPA Region 6 will oversee activities conducted by the Louisiana Department of Environmental Quality to ensure that the conditions in the EPA/LDEQ Memorandum of Agreement are followed (particularly Sections III.E.1.b and III.E.1.d pertaining to provisions and agreements in the LDEQ/FWS Memorandum of Understanding).

b. U.S. Fish and Wildlife Service will work with LDEQ in the development of permits and provide comments on draft permits in accordance with LDEQ/FWS Memorandum of Understanding (hereby incorporated by reference).

c. When the FWS and LDEQ cannot agree on appropriate actions for the protection of listed or proposed species or critical habitat associated with a LPDES permit, and EPA is notified of FWS concerns by LDEQ, EPA will determine whether to make a formal objection to the issuance of the permit (in accordance with 40 CFR 123.44). EPA will formally object to the issuance of the draft permit if FWS determines that the action is likely to jeopardize the continued existence of a listed or proposed species or destroy designated critical habitat. Procedures for an EPA formal objection are outlined in the EPA/LDEQ MOA.

d. EPA will work with LDEQ and FWS to resolve issues of concern. Should EPA be able to facilitate a resolution of the issues that prompted the formal objection, the objection may be withdrawn, and LDEQ may proceed with the issuance of the permit.

e. If EPA determines to issue the permit, they will consult with FWS, prior to permit issuance, when it is determined that the permit action may have an effect on a federally listed species or may jeopardize the continued existence of a proposed species or adversely modify critical habitat, in accordance with Section 7 of the Endangered Species Act (regulations found at 50 CFR Part 402).

The U.S. Fish and Wildlife Service and U.S. EPA Region 6 agree that the provisions in the LDEQ/FWS MOU and the above-listed procedures describing EPA's oversight activities of the Louisiana program are appropriate mechanisms for the protection of federally listed or proposed species for LDEQ issued LPDES permits; and thus the authorization of the Louisiana State permitting program under NPDES is not likely to adversely affect listed species or adversely modify critical habitat, nor is likely to jeopardize the continued existence of a proposed species in the state of Louisiana. Signed by William B. Hathaway, Director, Water Quality Protection Division, U.S. EPA Region 6 [date: June 12, 1996]; and David Fruge, Field Supervisor, Louisiana Field Office, U.S. Fish and Wildlife Service [date: June 20, 1996].

2. Agreement with National Marine Fisheries Service: Consultation under Section 7 of the Endangered Species Act has been completed on EPA's approval of the LPDES program (letters dated August 16, 1996 and August 19, 1996). Informal consultation produced agreement between EPA Region 6 and the National Marine Fisheries Service (NMFS) that transfer of authority for permitting point source discharges to LDEQ would not be likely to adversely affect federally listed marine species. The conditions agreed upon by EPA and NMFS are listed below:

a. EPA Region 6 will oversee activities conducted by the Louisiana Department of Environmental Quality (LDEQ) to ensure that the conditions in the EPA/LDEQ Memorandum of Agreement are followed.

b. Annually, the National Marine Fisheries Service (NMFS) will provide LDEQ with a list of federally-listed threatened, endangered, and proposed species under NMFS jurisdiction, as well as proposed critical habitat, that occur in Louisiana and that are dependent upon marine habitat for all or part of their existence. NMFS will provide comments on draft permits in accordance with LDEQ/NMFS Memorandum of Understanding.

c. When the Service and LDEQ cannot agree on appropriate actions for the protection of listed or proposed species associated with a LPDES permit, and EPA is notified of NMFS concerns by LDEQ, EPA will work with NMFS and LDEQ to resolve the issue, and will determine whether to make a formal objection to the issuance of the permit (in accordance with 40 CFR 123.44). Procedures for an EPA formal objection are outlined in the EPA/LDEQ MOA.

d. EPA will work with LDEQ and NMFS to resolve issues of concern. Should EPA be able to facilitate a resolution of the issues that prompted a formal objection, the objection may be withdrawn, and LDEQ may proceed with the issuance of the permit.

e. If EPA determines to issue the permit, it will consult with NMFS when it is determined that the permit action is likely to adversely affect a federally listed species or may jeopardize the continued existence of a proposed species or adversely modify critical habitat, in accordance with Section 7 of the Endangered Species Act.

f. Where NMFS or LDEQ believes a State-drafted permit is likely to adversely affect a federally listed species or designated critical habitat, but EPA determines a formal objection to the permit is not justified, EPA will work with LDEQ and NMFS to try to find a resolution to the expressed concerns.

The National Marine Fisheries Service and U.S. EPA Region 6 agree that the above-listed procedures are appropriate mechanisms for the protection of federally listed or proposed species for LDEQ issued LPDES permits; and that the authorization of the Louisiana State permitting program under NPDES, will not be likely to adversely affect listed species or adversely modify critical habitat, nor is likely to jeopardize the continued existence of a proposed species. [Letter signed by William B. Hathaway, Director, Water Quality Protection Division, U.S. EPA Region 6 [date: August 16, 1996]; and concurrence letter from Dr. Andrew Kemmerer, Director, Southeast Region,

National Marine Fisheries Service dated: August 17, 1996.]

3. Agreement with State Historic Preservation Officer: Consultation under Section 106 of the National Historic Preservation Act has been completed on EPA's approval of the LPDES program. An agreement has been reached between EPA Region 6 and the Louisiana State Historic Preservation Officer (SHPO) to provide EPA oversight of LPDES permit actions with respect to properties listed or eligible for listing in the National Register of Historic Places. The conditions of the agreement signed by EPA and the SHPO are listed below:

a. EPA Region 6 will oversee activities conducted by the Louisiana Department of Environmental Quality to ensure that the conditions in the EPA/LDEQ Memorandum of Agreement are followed.

b. The Louisiana State Historic Preservation Officer will work with LDEQ in the development of permits and provide comments on draft permits in accordance with LDEQ/LSHPO Memorandum of Understanding.

c. When LSHPO and LDEQ cannot agree on appropriate actions for the protection of historic properties associated with a LPDES permit, and EPA is notified of LSHPO's concerns by LDEQ, EPA will determine whether to make a formal objection to the issuance of the permit (in accordance with 40 CFR 123.44). Procedures for an EPA formal objection are outlined in the EPA/LDEQ MOA.

d. EPA will work with LDEQ and the LSHPO to resolve issues of concern. Should EPA be able to facilitate a resolution of the issues that prompted the formal objection, the objection may be withdrawn, and LDEQ may proceed with the issuance of the permit.

e. If EPA determines to issue the permit, they will consult with the LSHPO and the Advisory Council on Historic Preservation (ACHP) when it is determined that a permit action will have an effect on a historic property listed, or eligible for listing in the National Register of Historic Places, in accordance with Section 106 of the National Historic Preservation Act.

The Louisiana State Historic Preservation Officer and U.S. EPA Region 6 agree that the above-listed procedures are appropriate mechanisms for the protection of historic properties listed or eligible for listing on the National Register of Historic Places for LDEQ issued LPDES permits; and that the authorization of the Louisiana State permitting program under NPDES, will not effect the above mentioned properties. Signed by William B. Hathaway, Director, Water Quality Protection Division, U.S. EPA Region 6 [date: March 20, 1996]; and Gerri Hobdy, Louisiana State Historic Preservation Officer, Office of Cultural Development, Louisiana Department of Culture, Recreation and Tourism [date: March 25, 1996].

Responsiveness Summary

The following is a summary of the issues raised by persons commenting on EPA's proposed approval and EPA's response to those issues.

1. *Comment Summary:* Some commenters favoring approval of the LPDES program cited *Union Electric Co.* v. *EPA*, 427 U.S. 246 (1976), claiming EPA is required to approve the LPDES program as long as it meets CWA's minimum requirements. Others, who oppose such approval, suggest EPA has far more discretion in its program approval decisions and that it should disapprove the LPDES program.

Response: In *Union Electric*, the Supreme Court essentially held that EPA had limited discretion to disapprove a State Implementation Plan under Section 110 of the Clean Air Act. The case has no direct application to EPA actions under the Clean Water Act, but might be instructive in determining EPA obligations in reviewing state water quality standards. Nevertheless, EPA ''shall approve'' state NPDES programs that conform to the requirements of CWA and 40 CFR Part 123. In implementing this requirement, EPA does not merely look to the state program's theoretical or ''paper'' conformity; it also examines the state's capacity to implement a conforming program. EPA Region 6 has examined the resources LDEQ will devote to the LPDES program and supports (via the CWA grant process) the development of LDEQ expertise and skills necessary for a successful program. In the judgment of EPA Region 6, LDEQ is now capable of undertaking primary responsibility for administration of the NPDES program in Louisiana.

2. *Comment Summary:* Some commenters expressed support for program authorization, pointing out LDEQ staff was ''knowledgeable and experienced.'' They note that LDEQ has historically issued permits for minor discharges in more timely fashion than EPA and suggest LDEQ may thus devote more staff resources to permitting tasks than EPA. Others, however, claimed the Program Description lacked sufficient information on program costs and sources of funding. They also claimed LDEQ will necessarily be understaffed because the Program Description (Section 6, p. 12) states that ''workload analysis of the anticipated number of enforcement actions the LDEQ will prepare over the next two years is difficult to project.''

Response: Chapters 4, 6, and Appendix H of the Program Description provide detailed information on LDEQ's organization, positions, projected costs, and sources of funding, including a projection of enforcement resource needs. EPA Region 6 agrees with LDEQ that it is ''difficult'' to project enforcement resource needs for the next two years, but finds the State's estimate of 600 enforcement actions consuming 5280 workdays reasonable. Based on its review of the Program Description, Region 6 found the LPDES program adequately staffed and funded.

3. *Comment Summary:* Commenters provided anecdotal information on LDEQ's implementation of EPA-approved programs under the Clean Air Act (CAA) and Resource Conservation and Recovery Act (RCRA), and state Louisiana Water Discharge Permit System (LWDPS) program in support of LPDES program approval. Some contended that the State's adoption of new regulations consistent with EPA's NPDES regulations showed LDEQ understood the program and was capable of administering it. Other commenters providing anecdotal information on LDEQ's implementation of RCRA and CAA programs contended it showed the State was incapable or unwilling to administer an effective NPDES program. Some pointed to the number of Louisiana's waters which have not attained applicable water quality standards. They claimed LDEQ is likely to render decisions affecting water quality on the basis of political considerations and expressed concern that federal ''monitoring'' of the LDEQ program would be insufficient to avoid attendant declines in water quality. They pointed out that water quality is important to the State's fishing, recreation, and tourism industries.

Response: Whether or not anecdotal examples show Louisiana's implementation of the CAA and RCRA programs to be exemplary or deficient, it is not an issue which EPA can weigh heavily in its decision to approve or disapprove a state program. EPA can not appropriately withhold approval of a state NPDES program to coerce improvements to a state RCRA program, nor can EPA appropriately approve a state NPDES program just because it was satisfied with that state's RCRA program. Each state program must be approved or disapproved on its own merit and oversight decisions on each program must stand on their own. EPA does not believe past administration of a state program accurately indicates

how it will administer the NPDES program. As EPA has previously stated, ''the Agency does not intend to disapprove all State programs which have had problems in the past. It views the decision on whether or not to approve as being forward looking; the Agency is primarily concerned that the program be effective in the future.'' 98 Fed. Reg. 33290, 33377 (May 19, 1980). Because the State's new LPDES regulations replicate the decisional criteria of EPA's own NPDES regulations, LPDES permits will be as least as stringent as NPDES permits issued by EPA, and therefore, will provide equivalent protection of water quality. LDEQ's permitting process will be subject to federal oversight and public participation.

4. *Comment Summary:* Some commenters argued EPA should not approve the LPDES program unless and until LDEQ adopts a penalty policy similar to EPA's. Citing a decline in State-imposed penalties since 1992, they claimed that LDEQ abuses its enforcement discretion in assessing penalties and that the lack of a written State penalty policy leaves EPA without a necessary oversight tool. Others suggested penalties are a poor indicator of program effectiveness, claiming LDEQ's enforcement program appropriately emphasizes compliance instead of penalties.

Response: EPA encourages, but does not require, that states implementing the NPDES program adopt penalty policies equivalent to EPA's. In a letter dated March 29, 1996, from LDEQ Secretary Dale Givens, the State has committed to developing and promulgating a penalty policy by April 1, 1997. EPA will work with the State in an effort to assure that policy is consistent with federal policies.

5. Comment Summary: Some commenters requested that EPA delay approval of the LPDES program until an ongoing FBI investigation into influence peddling by State officials is completed.

Response: If the ongoing FBI investigation reveals criminal wrongdoing by anyone currently associated with the LPDES program, it seems likely that association will end. Further discussion of an ongoing law enforcement investigation would be inappropriate here.

6. Comment Summary: Some commenters opposed approval on the grounds that Louisiana law does not provide minimum (''not less than'') penalties for program violations. Some also expressed concern that the Louisiana Legislature might pass an environmental audit statute inhibiting LDEQ's ability to penalize violators.

Response: Neither CWA § 402 nor 40 CFR Part 123 require that state law mandate minimum penalties to obtain NPDES approval. The regulation instead requires that states possess authority to assess civil penalties of at least $5,000 per day, per violation and criminal penalties of at least $10,000 per day, per violation. Louisiana law authorizes assessment of both civil and criminal penalties exceeding these amounts. *See* La. R.S. 30:2025. Post-approval changes to Louisiana law, if any, will be subject to review by EPA (in accordance with 40 CFR § 123.62). If any changes render the LPDES program noncompliant with federal requirements, EPA may withdraw program approval in accordance with 40 CFR § 123.63.

7. Comment Summary: Some commenters contended LDEQ must have the Permits Compliance System (PCS) in place before EPA approves the LPDES program.

Response: 40 CFR Part 123.26(e)(1) requires states to maintain a ''comprehensive inventory of all sources covered by NPDES permits and a schedule of reports required to be submitted by permittees to the State agency.'' EPA strongly encourages states to use the PCS system for compliance with this requirement. LDEQ is currently connected to PCS and EPA is actively training LDEQ staff in its use.

8. Comment Summary: One commenter suggested EPA should not approve the LPDES program until it revises its own system of determining significant noncompliance (SNC) and penalty assessment. The commenter apparently believes EPA's present system precludes assessment of penalties for more than one day's violation of a daily maximum limitation.

Response: Nothing in its current system precludes EPA from seeking penalties for each day a daily maximum effluent limitation is exceeded. As pointed out in a recent General Accounting Office report, however, EPA's existing compliance tracking system does not take such violations into proper account in targeting enforcement actions against facilities in SNC and the Agency is thus expanding its systemic definition of SNC to better address such violations. That EPA is updating and improving its own enforcement system, however, has no bearing on whether or not it should approve the LPDES program. The MOA between EPA and LDEQ commits LDEQ to address SNC in a timely manner. If EPA's definition of SNC is expanded, there will simply be more facilities in SNC for EPA and LDEQ to address.

9. Comment Summary: Some commenters claimed EPA has inappropriately waived its right to oversight review of many of the State's permitting actions.

Response: CWA § 402(e) authorizes EPA to waive oversight review of state permit actions on categories of point sources, thus allowing the Agency to concentrate its oversight resources on actions which may have the greatest effect on water quality or in which there is a paramount federal interest. These ''must review'' categories of discharges are generally described at 40 CFR § 123. 24(d). In the MOA with LDEQ, EPA has retained its oversight of those categories and added to them, requiring that LDEQ submit proposals to permit discharges from sanitary sewer overflows, discharges from municipal separate storm sewers, discharges which may adversely affect endangered or threatened species, and discharges which may adversely affect historic sites. In addition, EPA has retained its right to add to the classes of permitting actions it will review and to require review, on a case-by-case basis, of permits for which it has waived review.

10. Comment Summary: Some commenters contended EPA should retain jurisdiction over all permits for which applications are currently pending.

Response: Pursuant to CWA § 402(c) and 40 CFR § 124.15(a), EPA may not unilaterally retain jurisidiction over NPDES permits for which it has not yet issued a final permit decision in accordance with 40 CFR § 124.15. *See generally Central Hudson Gas & Electric Corp.* v. *U.S. EPA*, 587 F.2d 549 (2d Cir. 1978). To render programmatic transition more efficient and less confusing for permit applicants and the public, EPA and LDEQ have agreed that EPA will retain jurisdiction over permitting actions it has already proposed. The far broader jurisdictional retention suggested by the commenters would extend the transition period indefinitely and thus indefinitely delay the benefits of program authorization. Therefore, all permit applications which were submitted to EPA (except for those designated in Scope of the LPDES program part A.5. above) will be transferred within 30 days to the State for permitting action.

11. Comment Summary: Some commenters claimed that EPA should not approve LDEQ's use of general permits or should restrict it to instances in which EPA has already issued general permits. They expressed concern that general permits allow permit coverage for discharges without public notice or review. They also

claimed such general permits may not include monitoring or reporting requirements, depriving the public of access to effluent data. Other commenters supported LDEQ's use of general permits as a streamlining mechanism for both LDEQ and dischargers.

Response: EPA agrees that regulation of large numbers of similar discharges, for which similar effluent limitations are appropriate, is often more efficient with general permits. *See generally* 40 CFR § 122.28. Although LDEQ and EPA procedures for developing general permits are different, LDEQ's procedures provide for equivalent public notice and review. When it proposes general permits, LDEQ provides notice to interested parties on mailing lists and in newspapers of general circulation throughout the State, soliciting comments on those proposals. Copies of draft general permits and fact sheets are available for public review in the same manner as for individual permits. Louisiana Administrative Code (L.A.C.) 33:IX.2369 requires that all LPDES permits, including general permits, impose monitoring and reporting requirements as needed to assure compliance with permit conditions. Discharge monitoring reports submitted to LDEQ by general permittees will be maintained in individual facility files which are available for public review.

12. Comment Summary: Some commenters claim LDEQ has authority to grant broader variances than allowed by 40 CFR § 124.62.

Response: LDEQ's authority to grant variances to LPDES program requirements is not broader than EPA's corresponding NPDES authority. The Louisiana Attorney General (AG) has explained in the AG's Statement that the words ''as appropriate'' in the law which gives LDEQ the authority to grant variances [La. R.S. 30:2074(B)(4)] does not allow for variances which would not be allowed by the CWA. This statement by the AG is consistent with Louisiana regulation L.A.C. 33.IX.2317(A) which prohibits LDEQ from granting variances ''which under federal law may only be granted by EPA''; and L.A.C. 33.IX.2317(A) which prohibits issuance of permits ''when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA * * *'' This would also be a violation of the EPA/LDEQ MOA.

13. Comment Summary: Some commenters expressed concern that LPDES program approval would eliminate environmental protection afforded by the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). They requested that EPA not approve the LPDES program until the State adopts equivalent statutes. Others claimed the LPDES program would provide equivalent protection as a result of the Louisiana Supreme Court's decision in *Save Ourselves, Inc.* v. *Louisiana* Environmental Control Commission, 452 So.2d 1152 (La. 1984) and the EPA/LDEQ MOA.

Response: Because state permit actions under EPA-approved programs are not federal actions, neither NEPA nor ESA apply to them. *See, e.g., Chesapeake Bay Foundation* v. *United States,* 453 F.Supp. 122 (E.D. Va. 1978). Nor does CWA or 40 C.F.R. Part 123 require that states adopt equivalent statutes to obtain NPDES program approval. EPA's approval of state NPDES programs is itself moreover excluded from NEPA requirements by CWA § 511(c)(1). Although it is thus immaterial to its program approval decision, EPA Region 6 hopes the *Save Ourselves* decision provides a degree of environmental protection comparable to NEPA's, but believes it may be too early to tell.

In *Save Ourselves,* the Louisiana Supreme Court reversed a hazardous waste permit decision of the Louisiana Environmental Control Commission (an LDEQ predecessor), finding the Commission had failed to explain or document its decisions on issues raised by public commenters. The Court's decision was based in part on a public trust doctrine established by the Natural Resources Article of the Louisiana Constitution. At 452 So.2d 1156–57, the Court stated:

> The Constitutional standard requires environmental protection ''insofar as possible and consistent with the health, safety, and welfare of the people.'' La. Const. art. IX § 1. This is a rule of reasonableness which requires an agency or official, before granting approval of a proposed action affecting the environment, to determine that adverse impacts have been minimized or avoided as much as possible consistently with the public welfare. Thus, the constitution does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social and other factors.

Because the Court's decision was also grounded in provisions of Louisiana statutory law, some may interpret its public trust doctrine discussion as nonprecedential *dictum.* Others may read the *Save Ourselves* case as authorizing or requiring LDEQ to consider a broader range of environmental issues in permit actions than are specifically encompassed by its permit regulations. Under the latter reading, the decision's effect on the development of Louisiana environmental law may be considered comparable to the effect of *Calvert Cliff's Coordinating Committee* v. *U.S. Atomic Energy Commission,* 449 F.2d 1109 (D.C. Cir. 1971) on development of federal NEPA jurisprudence. Recent Louisiana judicial decisions have referenced the public trust doctrine of *Save Ourselves,* but none have yet provided clear direction on LDEQ's authority to consider or act in response to environmental issues not otherwise addressed by its regulations. *See, e.g., In the matter of Cytec Industries, Inc.,* 94 1693 (La. App. 1st Cir. 02/23/96), 672 So.2d 179.

Regardless of the scope of LDEQ authority, however, it appears the public trust doctrine imposes no specific ''action forcing'' mechanism equivalent to NEPA's environmental impact statement requirement and thus does not assure LDEQ will ferret out unforeseen issues not otherwise addressed by requirements specific to its various programs. To obtain LDEQ consideration of specific environmental problems and potential alternatives in LPDES permit actions, interested parties would thus be well advised to raise their concerns and suggest specific alternatives in comments submitted for LDEQ's administrative record in those actions.

EPA's approval of the LPDES program should not diminish the federal protection ESA affords threatened and endangered species. Because Louisiana law does not specifically require LDEQ to provide the same protection, EPA and LDEQ have developed procedures, in consultation with the U.S. Fish & Wildlife Service and National Marine Fisheries Service, to assure program approval is unlikely to adversely affect listed species or critical habitat. *See* Consultation Agreements Nos. 1 and 2, Section C, Scope of the LPDES Program, above. Region 6 anticipates that LDEQ and the appropriate Service(s) will usually avoid such harm without the need for EPA intervention, but will not hesitate to use its oversight authority to provide protection due under ESA.

14. Comment Summary: Some commenters urge EPA not to approve the LPDES program because the protection now provided by the National Historic Preservation Act (NHPA) to historic sites would be altered. These commenters claimed the procedures outlined in the EPA/LDEQ MOA and associated consultation agreements are insufficient protection for historic properties in Louisiana. These commenters additionally express

the opinion that EPA is responsible for making determinations of ''affect'' in consultation with the State Historic Preservation Officer (SHPO) on all permits issued by the authorized program (citing the 1992 Congressional redefinition of ''undertaking''). They viewed the MOA provisions on consultations between LDEQ, the SHPO, and EPA Region 6 as an unauthorized attempt to evade the procedural requirements of the consultation regulations under Section 106 of the NHPA.

Response: EPA Region 6 agrees that the 1992 amendments to the NHPA revised the statutory definition of ''undertaking'' for purposes of the section 106 consultation process. However, the Advisory Council on Historic Preservation has not yet amended its implementing regulations to interpret the effect of that statutory change. In consultation with the SHPO on LPDES program approval, the Region and LDEQ have thus developed procedures for protecting historic properties, as documented in agreements among EPA Region 6, LDEQ, and the SHPO. Under those procedures, the Region and SHPO agree that LPDES program approval will have no effect on historic properties. When the Advisory Council promulgates regulations implementing the 1992 NHPA amendment, it may be necessary to review the procedures/agreements and possibly amend them.

In view of the agreements among Region 6, LDEQ, and the SHPO, Region 6 does not agree with the commenters' suggestion that EPA must itself consult each time LDEQ proposes action on an LPDES permit application. Even as federal NPDES permit actions, many of those proposals (e.g., most permit renewals) would have no potential adverse effect on historic properties; and LDEQ may tailor others to avoid such potential effects after coordination with the SHPO under the outlined procedures. If LDEQ, the SHPO, or the Advisory Council requests its assistance to resolve issues concerning adverse effects to such properties, EPA Region 6 will consult and, when appropriate, use its program oversight authority to resolve potential adverse effects to historic properties.

15. Comment Summary: Some commenters opposed approval of the LPDES program on ''environmental justice'' grounds, contending that LDEQ may issue permits to facilities in economically depressed areas or areas primarily populated by minorities, while denying permits or requiring more stringent limitations in more affluent neighborhoods. They request that EPA Region 6 withhold approval of the LPDES program until an ongoing investigation by EPA's Office of Civil Rights is completed.

Response: EPA is not at this time investigating any civil rights violations by LDEQ. EPA headquarters is reviewing a complaint to determine if that complaint meets the criteria for an investigation. Both EPA and LDEQ are firmly committed to environmental justice and will work together to address it in permitting actions. Current EPA regulations provide little room for consideration of such factors in NPDES permitting (except in EPA's permitting actions involving ''new sources'' to which NEPA applies). Possibly, the Louisiana public trust doctrine (see response number 13) provides LDEQ greater ability to respond to environmental justice concerns than EPA possesses.

16. Comment Summary: Commenters both supporting and opposing program approval encouraged EPA to review LDEQ's new rules for protecting confidential business information for conformity with federal requirements. Some expressed concern the rules might inhibit citizen access to information necessary to effective public participation in the LPDES program.

Response: Like CWA § 308(b), La. R.S. 30:2074 (D) provides trade secrecy protection for confidential business information submitted to LDEQ, but contains an ''effluent data'' exclusion for information relating to discharges. Both federal and Louisiana statutes thus strike a balance between protection of competitive business interests and of the public's right to participate in important governmental decisions of public effect. LDEQ's new rules [L.A.C. 33:I.Chapter 5], are functionally equivalent to EPA's [40 CFR Part 2, Subpart B], as they both rely on similar procedures and substantive elements for evaluating business confidentiality claims. LDEQ's regulations do not define ''effluent data,'' but there is little reason to believe LDEQ and EPA would reach different decisions on public access to information given the common purpose of the federal and State statutory exclusions, i.e., promoting public participation in permitting and enforcement actions. It is more likely EPA's regulatory interpretation [at 40 CFR § 2.302(a)(2)] would be accorded persuasive weight in State confidentiality proceedings. Louisiana's regulations also provide confidential treatment to documents in investigatory files if necessary to ''prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation.'' L.A.C. 33:I.501(1). This regulation appears comparable to 5 U.S.C. § 552(b)(7)(A) and 40 CFR § 2.118(a)(7)(i)(A), allowing LDEQ to avoid disclosure of sensitive information, e.g., privileged predecisional staff recommendations or evaluations, to the targets of potential or proposed enforcement actions. It may not, consistent with the intent underlying La. R.S. 30:2074(D), be applied to the objective effluent data necessary to establish a violation in enforcement proceedings. Although the public may have to obtain independent analysis of such data (instead of relying on written LDEQ evaluations) to effectively participate in enforcement proceedings, that burden is consistent with EPA's own regulations and practices.

17. Comment Summary: Some commenters opposed program approval on the basis of claims that LDEQ copying charges unduly inhibit access to public information needed for effective public participation in the LPDES program. They claimed the State should provide copies of public records free of charge, consistent with EPA practices. Others claimed LDEQ does not respond to requests for public information.

Response: Although the federal Freedom of Information Act and EPA regulations allow it to provide document copies at reduced or no charge to public interest requestors, neither CWA nor EPA's regulations impose such a requirement on states with approved NPDES programs. Unless state information access practices frustrate the mandate of CWA § 101(e) or conflict with controlling EPA regulations, they provide no reason for disapproval of a state program. Louisiana's practices are consistent with that mandate and with EPA's regulations. Consistent with 40 CFR § 124.10(d), for instance, LDEQ notices of proposed permitting actions provide the name, address, and phone number of the person from whom a copy of the draft permit, fact sheet or statement of basis, and application may be obtained. Charges LDEQ assesses reflect its cost for providing the requested documents and should not greatly inhibit public access. Even citizens unable to pay the indigent rate of 5 cents a page copy cost may freely examine such information at LDEQ offices during normal business hours, taking notes or rendering hand-written copies. Additionally, LDEQ no longer charges those who use personal copiers in such onsite examinations. Commenters claiming LDEQ has been nonresponsive to information requests provided no specific examples. EPA Region 6 notes that La. R.S. 44:35

provides for expedited judicial review of a Louisiana agency's failure to produce requested records and authorizes award of reasonable attorney's fees for prevailing parties.

18. Comment Summary: Some commenters contended EPA should disapprove the LPDES program for inconsistency with CWA § 402(b)(3), which requires that states provide opportunity for public hearing before permit issuance. The commenters pointed out that L.A.C. 33:IX.2419 requires that LDEQ provide a hearing only if it finds ''a significant degree of public interest'' in a permit action; and claim such a provision is insufficient for compliance with the statute's mandate.

Response: The statute requires only an ''opportunity'' for public hearing; it does not require that a hearing be convened merely because there is a single request. The minimum requirements for providing such opportunity are reflected by 40 CFR § 124.12(a) (i.e. when there is sufficient public interest or at the discretion of the Director). L.A.C. 33:IX.2419 is almost a verbatim copy of that federal regulation.

19. Comment Summary: Some commenters claimed the Program Description's explanation of the judicial review process on LDEQ permitting decisions was inadequate and misleading. They claimed an applicant's request for *de novo* review pursuant to La. R.S. 30:2024(A) would result in the Nineteenth Judicial District Court rendering final permit decisions independent of LDEQ. They also claimed this was unfair inasmuch as citizens adversely affected by permit actions were limited to seeking judicial review under La. R.S. 30:2024(C)(1) in which the review is normally limited to the administrative record.

Response: These commenters appear to confuse the standard of review with scope of review under La. R.S. 30:2024(C). As explained in the Program Description, controlling State jurisprudence limits the scope of judicial review under that provision to LDEQ's decision (or indecision) on whether to grant an adjudicatory hearing requested under LRS 30:2024(A); the merits of LDEQ's permit decisions are not subject to review in such proceedings. *See In the matter of Carline Tank Services, Inc.,* 623 So.2d 669 (La. App. 1st Cir. 1993). The *de novo* (i.e., new evidence) review standard presumably allows LDEQ to interpose reasons for denying a hearing which do not appear on the administrative record when, for instance, it has rendered no formal decision within the 30 days provided by the statute.

The commenters claim *Pardue* v. *Stevens,* 558 So.2d 1149 (La. App. 1st Cir. 1989) shows that Louisiana law allows a reviewing court to ''issue its own permits'' following *de novo* review. *Pardue* involved review of a Coastal Use Permit under La. R.S. 49:213.16(F), a statute which does not apply to the LPDES program. Indeed, Louisiana's legislature has specifically excluded the LPDES program from a similar State statutory provision which would otherwise allow judicial issuance of permits in ''show cause'' proceedings. *See* La. R.S. 49:962.1(D). It is difficult to imagine a clearer manifestation of legislative intent that the judiciary is not to ''issue'' LPDES permits.

Simply stated, the State court reviews LDEQ's decision to grant a hearing, not the conditions or requirements of the final permit under consideration. The only issue on which *de novo* review is allowed is whether LDEQ should have granted a permit applicant's request for adjudication. Following such review, the court will presumably either find no hearing was required or remand the matter for adjudication. ''Aggrieved parties,'' whether permit applicants or citizens with potentially affected aesthetic or recreational interests, may obtain judicial review of final decisions on LPDES permit terms only in accordance with La. R.S. 30:2024(C)(1), which provides for summary review in accordance with La. R.S. 49:964, i.e., on the administrative record. *See generally In the Matter of Recovery I, Inc.,* 635 So.2d 690 (La. App. 1st Cir. 1994); *In the matter of Carline Tank Services, supra.*

20. Comment Summary: Some commenters requested that EPA disapprove the State's program submission until the State enacts a statute providing for State court jurisdiction over citizen suits equivalent to federal district court jurisdiction under CWA § 505. These commenters were concerned that, under La. R.S. 30:2026, LDEQ could preempt State court jurisdiction over a citizen suit by issuing a compliance order and requested EPA ''reassurance'' that CWA § 505 would continue to apply in Louisiana.

Response: Neither CWA nor 40 CFR Part 123 requires that a state provide its courts with jurisdiction over citizen suits to obtain EPA approval of its NPDES program. La. R.S. 30:2026, however, provides such jurisdiction in Louisiana. That State statute is comparable to CWA § 505, but differs in several respects, one of which appears to be the basis for the comment. In contrast to corresponding CWA provisions, the Louisiana statute prohibits citizen suits if, within 30 days of notice, the alleged violator ''is * * * under any order issued * * * to enforce any provision of this Subtitle.'' La. R.S. 30:2026(B)(3)(a).

EPA approval of a State NPDES program does not divest the federal courts of jurisdiction over citizen suits under CWA § 505. Pursuant to CWA § 309(g)(6)(A)(ii), however, state proceedings ''comparable to'' EPA administrative penalty assessments preempt subsequent penalty actions, including actions under CWA § 505, for the same violations. EPA does not believe that non-punitive compliance orders issued by state agencies are comparable to EPA administrative penalty actions under CWA § 309(g). The federal courts, however, have reached differing conclusions on that issue. Compare *Citizens for a Better Environment* v. *Union Oil Co. of California,* 83 F.3d 1111 (9th Cir. 1996) *with North & South Rivers Watershed Ass'n* v. *Scituate,* 949 F.2d 552 (1st Cir. 1991).

21. Comment Summary: Some commenters submitted a petition raising concerns on alleged pollution from Hunt Correctional Center and the Louisiana Correctional Institute for Women. The petition urged public officials to bring these facilities into compliance.

Response: The petition raises no issues of direct relevance to EPA's program approval decision. EPA has recently received a notice of intent to file suit against these State correctional facilities from Sierra Club Legal Defense Fund. EPA is currently discussing the matter with LDEQ and the Louisiana Department of Corrections.

22. Comment Summary: Some commenters supporting LPDES program approval noted that it is both inconvenient and expensive to obtain permits for surface water discharges from two separate agencies. They claimed that program oversight is a more appropriate role for EPA and that EPA retains the right to withdraw the program if LDEQ does not implement it appropriately.

Response: ''It is the policy of Congress that the States * * * implement the permit programs under sections 402 and 404 of this [Clean Water] Act.'' CWA § 101(b). Today's program approval is also consistent with that policy and with the goal of preventing ''needless duplication of paperwork'' under CWA § 101(f).

Other Federal Statutes

A. Small Business Regulatory Enforcement Fairness Act

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness 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 5 U.S.C. 804(2).

B. Regulatory Flexibility Act

After review of the facts presented in this document, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this authorization will not have a significant impact on a substantial number of small entities. The approval of the Louisiana NPDES permit program merely transfers responsibilities for administration of the NPDES permit program from Federal to State government. This change will allow small entities more convenient access to the regulatory process.

I hereby authorize the LPDES program in accordance with 40 CFR part 123.

Dated: August 27, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96–23067 Filed 9–10–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 96–1495]

FCC Establishes North American Numbering Council Advisory Committee, Announces Members and Sets Initial Meeting Date

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On September 5, 1996, the Commission released a public notice announcing the establishment of the North American Numbering Council (NANC) as a Federal Advisory Committee and announcing the members of the committee and the committee's first meeting on October 1, 1996. The intended effect of this action is to make the public aware of the NANC's establishment, members and first meeting.

FOR FURTHER INFORMATION CONTACT: Marian Gordon, Designated Federal Official of the North American Numbering Council, (202) 418–2337 or Mary DeLuca, Alternate Designated Federal Official of the North American Numbering Council, (202) 418–2334. The address for both is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, D.C. 20054. The fax number for both is: (202) 418–2345. The TTY number for both is: (202) 418–0484.

SUPPLEMENTARY INFORMATION:

Released: September 5, 1996.

The Federal Communications Commission (FCC) has established the North American Numbering Council (NANC or Council). The NANC is established under the provisions of the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988) (FACA).

The initial Council meeting will be held on Tuesday, October 1, 1996, at 9:30 A.M. EDT at the Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C. 20554.

On July 13, 1995, the Commission adopted a new model for administration of the North American Numbering Plan (NANP) and announced the establishment of the NANC. *See Administration of the North American Numbering Plan,* CC Docket No. 92–237; 60 FR 38737, July 28, 1995; Report and Order, 11 FCC Rcd 2588, 2591 (1995). The NANP is the basic numbering scheme for the telecommunications networks located in Anguilla, Antigua, Bahamas, Barbados, Bermuda, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent, Turks & Caicos Islands, Trinidad & Tobago, and the United States (including Puerto Rico, the U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands). The new model is guided by several principles, including maintaining and fostering an integrated approach to number administration throughout portions of North America and providing a structure for number administration that is impartial and pro-competitive. The NANC will advise the Commission on numbering issues (such as number portability implementation), select and guide a neutral NANP Administrator, apply Commission policy to resolve issues arising in the administration of the NANP, and conduct initial dispute resolution. The NANP Administrator will process number resource applications and maintain administrative numbering databases. Operational details and additional activities of the NANP Administrator are to be determined by the NANC. The Commission, with other NANP member countries, will oversee the NANC. The establishment of this Council is necessary and in the public interest. In carrying out its responsibilities, the Council shall assure that NANP administration supports the following policy objectives: (1) That the NANP facilitates entry into the communications marketplace by making numbering resources available on an efficient, timely basis to communications service providers; (2) that the NANP does not unduly favor or disfavor any particular industry segment or group of consumers; (3) that the NANP gives due regard to state and local interests; (4) that the NANP does not unduly favor one technology over another; (5) that the NANP gives consumers easy access to the public switched telephone network; and (6) that the NANP ensure that the interests of all NANP member countries are addressed fairly and efficiently, fostering continued integration of the NANP across NANP member countries.

The FCC requested nominations for membership on the NANC. See Public Notice in CC Docket No. 92–237, DA 95–1721, 60 FR 42158 (August 15, 1995). The FCC considered all applications and nominations for membership filed in response to the Notice and selected members named in the list attached to this Public Notice. Because the Council includes representatives from every sector of the telecommunications industry, as well as members representing NANP member countries, the states, and consumers, the Council's membership will be impartial and well balanced.

This meeting will be open to members of the general public. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written statements to the Council. The statements must be submitted two business days before the meeting in which the commenter desires his/her comments to be distributed. In addition, statements at the meeting by parties or entities not represented on the Council will be permitted to the extent time permits. Statements will be limited to five minutes in length by any one party or entity, and requests to make such statements to the Council in person must be received two business days before the meeting in which the commenter desires to be heard. Requests for comment opportunity, and written comments, should be sent to Marian Gordon or Mary DeLuca, at the address

under **FOR FURTHER INFORMATION CONTACT** stated above.

Agenda: The planned agenda for the first meeting is as follows:

1. Welcoming Remarks
2. Introductions
3. NANC Organizational Protocols
4. NANC Objectives and Tasks
5. Development of NANC Work Plan
6. Meeting Summary/Agenda for Next Meeting
7. Other Business

North American Numbering Council Membership

Designated Federal Official—Marian Gordon
Alternate Designated Federal Official—Mary DeLuca

Voting Members

1. Heather Gold—ALTS
2. Raymond Cline—American Petroleum Institute
3. Brian Deobald—AMSC
4. To be announced—APCC
5. Ellwood Kerkeslager—AT&T
6. Dennis Hinkel—Cincinnati Bell
7. Genevieve Morelli—Comptel
8. Dr. Brian Fontes—CTIA
9. Richard Murphy—Eastern TeleLogic Corp.
10. To be announced—Frontier
11. Bernard Harris—GTE
12. Susan Drombetta—Matrixx Communications (formerly Scherer Com.)
13. Peter Guggina—MCI
14. Brian O'Shaughnessy—Mobility Canada
15. Hon. Julia Johnson—NARUC
16. Hon. Kenneth McClure—NARUC
17. Paul Jones—NCTA
18. Lawrence Krevor—Nextel
19. Ray Strassburger—Northern Telecom
20. Casimir Skrzypczak—NYNEX
21. Anna Miller—Omnipoint
22. Greg Rise—OPASTCO
23. Mark Golden—PCIA
24. Danley Hubbard—SBC Communications
25. Michael Robinson—Sprint Spectrum (formerly Sprint Telecom. Venture)
26. Jacques Sarrazin—Stentor Resource Centre
27. Kenneth Shulman—Teleport
28. Dan Bart—TIA
29. David Whyte—Unitel
30. Paul Hart—USTA

Special Members (Non-Voting)

1. Susan Miller—ATIS
2. Ron Conners—Bellcore (NANPA)
3. Larry Irving—U.S. NTIA
4. Vonya McCann—U.S. State Department

Ex-Officio Participants

1. Industry Canada—Canada
2. To be announced—Caribbean Representatives
3. To be announced—Bermuda Representative

Federal Communications Commission

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 96–23389 Filed 9–10–96; 8:45 am]

BILLING CODE 6712–01–P

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Thursday, September 12, 1996

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, September 12, 1996, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, Subject

1—Office of General Counsel—Title: Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as added by Section 103 of the Telecommunications Act of 1996 (GC Docket No. 96–101). Summary: The Commission will consider rules to implement Section 103 of the Telecommunications Act of 1996.

2—Office of Engineering and Technology—Title: Amendment of Parts 2, 25 and 90 of the Commission's Rules to Allocate the 13.75–14.0 GHz Band to the Fixed-Satellite Service (ET Docket No. 96–20, RM–8638). Summary: The Commission will consider the allocation of the 13.75–14.0 GHz to the fixed-satellite (Earth-to-space) service.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. at (202) 857–3800. Audio and video tapes for this meeting can be purchased from Telspan International at (301) 731–5355. This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100.

Dated September 5, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–23411 Filed 9–9–96; 2:44 pm]

BILLING CODE 6712–01–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Affordable Housing Advisory Board Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published of the Affordable Housing Advisory Board (AHAB) meeting. The meeting is open to the public.

DATES: The Federal Deposit Insurance Corporation, Affordable Housing Advisory Board will hold its third meeting on Thursday, September 26, 1996 in Boston, Massachusetts, from 9:00 a.m. to 12 Noon.

ADDRESSES: The meeting will be held at the following location: The Federal Reserve Bank of Boston, New England, Room 600 Atlantic Avenue, Fourth Floor, Boston, Massachusetts 02106.

FOR FURTHER INFORMATION CONTACT: Danita M.C. Walker, Committee Management Officer, Federal Deposit Insurance Corporation, 801 17th Street, NW, Room 736, Washington, D.C. 20429, (202) 416–4086.

SUPPLEMENTARY INFORMATION: The Board consists of the Secretary of Housing and Urban Development (HUD) or delegate; the Chairperson of the Board of Directors of the FDIC, or delegate; the Chairperson of the Oversight Board, or delegate; four persons appointed by the General Deputy Assistant Secretary of HUD who represent the interests of individuals and organizations involved in using the affordable housing programs, and two former members of the Resolution Trust Corporations Regional Advisory Boards. The AHAB's original charter was issued March 9, 1994, and a re-charter was issued on February 26, 1996.

Agendas: An agenda will be available at the meeting. At the general session, the AHAB will have a presentation on the New FDIC Affordable Housing Program, Status of the Monitoring and Compliance Program and, as presentation of the FDIC Foreclosure Prevention Project. The AHAB will develop recommendations at the conclusion of the Board meeting. The AHAB's chairperson or its Delegated Federal Officer may authorize a member or members of the public to address the AHAB during the public forum portion of the session.

Statements: Interested persons may submit, in writing, data, information or views on the issues pending before the

Affordable Housing Advisory Board prior to or at the general session of the meeting. Seating for the public is available on a first-come first-served basis.

Dated: September 9, 1996.

Danita M.C. Walker,

Committee Management Officer, Federal Deposit Insurance Corporation.

[FR Doc. 96–23440 Filed 9–10–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011519–001

Title: Tricon/Hanjin Transpacific Agreement

Parties:

Cho Yang Shipping Co. Ltd.

DSR-Senator Lines

Hanjin Shipping Co., Ltd.

Synopsis: The proposed modification deletes the authority for the parties to discuss policy and, on a voluntary and non-binding basis, reach accord with respect to items arising under other agreements in the trade to which they, or any of them, may be a party to. The parties have requested a shortened review period.

Dated: September 5, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–23158 Filed 9–10–96; 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 September 25, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Thompson Family Trust, Steven A. Chandler, Trustee, Eldorado, Texas; to acquire a total of 11.95 percent of the voting shares of First Eldorado Bancshares, Inc., Eldorado, Texas, and thereby indirectly acquire First National Bank, Eldorado, Texas.

Board of Governors of the Federal Reserve System, September 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–23202 Filed 9-10-96; 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 October 4, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Community Bank Shares of Indiana, Inc., New Albany, Indiana; to acquire 100 percent of the voting shares of Community Bank of Southern Indiana, New Albany, Indiana, currently operates as Community Bank of Southern Indiana, FSB, New Albany, Indiana.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. BERCO, Inc., Bennington, Kansas; to acquire 10.99 percent of the voting shares of Front Range Bancshares, Littleton, Colorado, and thereby indirectly acquire Front Range Bank-Green Mountain, Inc., Lakewood, Colorado.

2. UMB Financial Corporation, Kansas City, Missouri; to acquire 100 percent of the voting shares of UMB Bank Omaha, N.A. (in organization), Omaha, Nebraska.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200

North Pearl Street, Dallas, Texas 75201-2272:

1. Texas Country Bancshares, Inc., Brady, Texas; to acquire 100 percent of the voting shares of The First National Bank of Ballinger, Ballinger, Texas.

2. TCB Delaware, Inc., Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Ballinger, Ballinger, Texas, and to acquire 99.633 percent of the voting shares of Brady National Bank, Brady, Texas.

Board of Governors of the Federal Reserve System, September 4, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–23036 Filed 9-10-96; 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 October 4, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Taylor Capital Group, Inc., Wheeling, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Cole Taylor Bank, Chicago, Illinois.

In connection with this application, Applicant also has applied to acquire CT Mortgage Company, Inc., Altamonte Springs, Florida, and thereby engage in lending activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Flencher Family Corp., Somerville, Texas; to become a bank holding company by acquiring 1.00 percent of the voting shares and EBF-HRF Family Limited Partnership, Somerville, Texas, to become a bank holding company by acquiring 27.3 percent of CSB Bancshares, Inc., Somerville, Texas, and thereby indirectly acquire Citizens State Bank, Somerville, Texas.

Board of Governors of the Federal Reserve System, September 5, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–23201 Filed 9-10-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 24, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Peoples Heritage Financial Group, Inc., Portland, Maine; to acquire 100 percent of the voting shares of Family Bancorp, Haverhill, Massachusetts, and thereby indirectly acquire Family Bank, F.S.B., Haverhill, Massachusetts, pursuant to § 225.25(b)(9) of the Board's Regulation Y. Family Bancorp, would be merged into Peoples Heritage Merger Corp., a newly-formed, wholly-owned subsidiary of Peoples Heritage Financial Group, Inc. These activities will be conducted throughout the state of Massachusetts.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Citizens Corporation, Franklin, Tennessee; and Harrison Group, Inc., Franklin, Tennessee; to acquire Financial Data Technology Corporation, Franklin, Tennessee, and thereby engage

directly in mortgage lending activities pursuant to § 225.25(b)(1) of the Board's Regulation Y and, through Financial Data Technology Corporation to engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the state of Tennessee.

2. SouthTrust Corporation, Birmingham, Alabama; and SouthTrust of Florida, Inc., Jacksonville, Florida; to acquire Preferred Bank, a Federal Savings Bank, Palmetto, Florida, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted throughout the state of Florida.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Fremont Bancorporation, Fremont, California; to engage *de novo* in commercial lending and loan servicing pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. National Bancorp of Alaska, Inc., Anchorage, Alaska; to engage *de novo* in investing in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 4, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–23037 Filed 9-10-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 25, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Cardinal Bankshares Corporation, Floyd, Virginia; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. Centura Banks, Inc., Rocky Mount, North Carolina; to acquire CLG, Inc., Raleigh, North Carolina, and thereby engage in leasing computer and technology equipment to various companies, pursuant to § 225.25 (b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Franklin National Bankshares, Inc., Mt. Vernon, Texas; to engage *de novo* through its subsidiary, Franklin National Mortgage Corporation, Mt. Vernon, Texas, in mortgage banking activities, specifically, originating and processing loan applications, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y. Funding for the loans will be underwritten by various mortgage companies, not the notificant. The geographic scope for these activities will be Northeast Texas.

2. South Central Texas Bancshares, Inc., Flatonia, Texas, and South Central Texas Bancshares-Delaware, Inc., Wilmington, Delaware; to acquire 18 percent of the voting shares of Fayette Savings Association, La Grange, Texas, and thereby engage in operating a savings association, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 5, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–23200 Filed 9-10-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Monday, September 16, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m., two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 6, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–23323 Filed 9–6–96; 4:54 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisition during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 081296 AND 082396

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Profitt's, Inc., Parisian, Inc., Parisian, Inc	96–2419	08/14/96
North Shore Health System, S.I.U.H. Systems, Inc., S.I.U.H. Systems, Inc	96–2475	08/14/96
Halliburton Company, Landmark Graphics Corporation, Landmark Graphics Corporation	96–2522	08/14/96
Estate of Phoebe F. Connor, Mary Snyder Trust, Roy J. Maier Products	96–2562	08/14/96
Estate of Phoebe F. Connor, Roy J. Maier Living Trust, Roy J. Maier Products	96–2565	08/14/96
Jones Medical Industries, Inc., Galen Drugs of Florida, Inc., Galen Drugs of Florida, Inc	96–2573	08/14/96
Hologic, Inc., FluoroScan Imaging Systems, Inc., FluoroScan Imaging Systems, Inc	96–2590	08/14/96
Kelso Investment Associates V, L.P., Masada Cable Partners, L.P., Masada Cable Partners, L.P	96–2613	08/14/96
Charterhouse Equity Partners II, L.P., Masada Cable Partners, L.P., Masada Cable Partners, L.P	96–2617	08/14/96
Equifax Inc., Rick L. Rozar, CDB Infotek	96–2623	08/14/96
TPG Partners, L.P., Sather Realty Company, Sather Realty Company	96–2552	08/15/96
TPG Partners, L.P., Sathers, Inc., Sathers Inc	96–2553	08/15/96
Thermo Electron Corporation, Julia Worden, Continental X-Ray Corporation, Advanced Medical Imaging	96–2441	08/16/96
OrthoLogic Corp., Columbia/HCA Healthcare Corporation, Sutter Corporation	96–2557	08/16/96
Odyssey Partners, L.P., Aviall, Inc., Aviall Services, Inc. and Aviall (Canada) Ltd	96–2572	08/16/96
The Sherwin-Williams Company, Voting Trust Agreement (Brod-Dugan Company), Brod-Dugan Company	96–2575	08/16/96
HA-LO Industries, Inc., Market U.S.A., Inc., Market U.S.A., Inc	96–2587	08/16/96
OrNda Healthcorp, Fallon Clinic, Inc., Fallon Clinic, Inc./St. Vincent Healthcare System, Inc	96–2601	08/16/96
GC Companies, Inc., Global TeleSystems Group, Inc., Global TeleSystems Group, Inc	96–2612	08/16/96
Cisco Systems, Inc., Telebit Corporation, Telebit Corporation	96–2614	08/16/96
Tyco International Ltd., BTR plc, The Rochester Corporation	96–2619	08/16/96
Odyssey Partners, L.P., Richard P. Small, Tri-Star Aerospace, Inc	96–2624	08/16/96
Living Centers of America, Inc., Cardinal Health Inc., Allied Pharmacy Management, Inc	96–2625	08/16/96
Cardinal Health, Inc., PCI Services, Inc., PCI Services, Inc	96–2626	08/16/96
Masayoshi Son, QWIZ Inc., QWIZ, Inc	96–2636	08/16/96
Collins Holding Company, John M. Rudey, U.S. Timberlands Holdings Company, L.L.C	96–2638	08/16/96
Golder, Thoma, Cressey, Rauner Fund IV, L.P., Living Centers of America, Inc., Living Centers-Devcon, Inc	96–2641	08/16/96
Georg Fisher AG, Etex, S.A., R&G Sloane Manufacturing Company, Inc	96–2644	08/16/96
Jose Cutrale, Jr., The Coca-Cola Company, The Coca-Cola Company	96–2647	08/16/96
Quorum Health Group, Inc., Doctors Hospital, Inc. of Stark County, Doctors Hospital, Inc. of Stark County; Comp Care, Incor	96–2650	08/16/96
Public Service Company of Colorado, T. Pat Harrison, Texas-Ohio Gas, Inc. and Texas-Ohio Pipeline, Inc	96–2654	08/16/96
Public Service Company of Colorado, Brett Thomas, Texas-Ohio Gas, Inc. and Texas-Ohio Pipeline, Inc	96–2655	08/16/96
JP Foodservice, Inc., Donald Daren, Arrow Paper and Supply Co., Inc	96–2567	08/19/96
US Province of Congregation-Sisters Bon Secours-Paris, Liberty Health System, Inc., Liberty Health System, Inc	96–2604	08/16/96
RWE AG, AM International, Inc., AM International, Inc	96–2620	08/19/96
Bell & Howell Company, The Oklahoma Publishing Company, DataTimes Corporation	96–2631	08/19/96
Morgan Stanley Group, Inc., The Clayton & Dubilier Private Equity Fund IV L.P., VK/AC Holding, Inc	96–2634	08/20/96
The St. Paul Companies, Inc., Richard P. Davis, Flagship Resources Inc	96–2642	08/20/96
Maurice J. Cunniffe, Triboro Electric Corporation, Triboro Electric Corporation	96–2656	08/20/96
Laboratory Corporation of America Holdings, Genzyme Corporation, Genetic Design, Inc	96–1996	08/21/96
Darling International Inc., International Processing Corporation, International Processing Corporation	96–2509	08/21/96
St. Luke's Health Network, Inc., Allentown Osteopathic Medical Center, Allentown Osteopathic Medical Center	96–2541	08/21/96
Tenet Healthcare Corporation, The Lloyd Noland Foundation, Inc., Tenet HealthSystem Lloyd Noland Medical, Inc	96–2581	08/21/96
American Home Products Corporation, Stryker Corporation, Stryker Corporation	96–2627	08/21/96
American Home Products Corporation, Creative BioMolecules, Inc., Creative BioMolecules, Inc	96–2628	08/21/96
Stryker Corporation, American Home Products Corporation, Genetics Institute, Inc	96–2632	08/21/96
Creative BioMolecules, Inc., American Home Products Corporation, Genetics Institute, Inc	96–2633	08/21/96
General Electric Company, Michael H. Polaski, the TEC Division of Specialty Underwriters, Inc	96–2637	08/21/96
World Financial Network Holding Corporation, Welsh, Carson, Anderson & Stowe VII, L.P., Business Services Holdings, Inc	96–2672	08/21/96
GENICOM Corporation, Texas Instruments Incorporated, Texas Instruments Incorporated	96–2496	08/23/96
Transamerica Corporation, Trans Ocean Ltd., Trans Ocean Ltd	96–2561	08/23/96
Howard Gilman, Perry Lumber Company, Perry Lumber Company	96–2578	08/23/96
Bill A. Gilliland, Lynn Hickey, Lynn Hickey Dodge, Inc	96–2583	08/23/96
Bell Atlantic Corporation, NYNEX Corporation, Catskills RSA Limited Partnership	96–2615	08/23/96
Greencore Group plc, Imperial Holly Corporation, Imperial Holly Corporation	96–2622	08/23/96
Foundation Health Corporation, FPA Medical Management, Inc., FPA Medical Management, Inc	96–2639	08/23/96
FPA Medical Management, Inc., Foundation Health Corporation, Foundation Health Medical Services	96–2640	08/23/96
Suiza Foods Corporation, Swiss Dairy, A Corporation, Swiss Dairy, a Corporation	96–2646	08/23/96
Louis J. Appell Residuary Trust, George F. Gardner, Raystay Co	96–2652	08/23/96
Compagnie Generale des Eaux, Air & Water Technologies Corporation, Air & Water Technologies Corporation	96–22658	08/23/96
Adaptech, Inc., Raymond J. Noorda and Lewena Noorda, Data Kinesis, Inc	96–2663	08/23/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 081296 AND 082396—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
ReliaStar Financial Corp., Sucessful Money Management Seminars, Inc., Sucessful Money Management Seminars, Inc	96–2666	08/23/96
TPG Partners, L.P., Claudio Castiglioni, Cagiva S.p.a., Cagiva Motorcycles S.p.a., Ducati Motorc	96–2669	08/23/96
Robert F.X. Sillerman, Multi-Market Radio, Inc., Multi-Market Radio, Inc	96–2671	08/23/96
BE&K, Inc., T.H. Suitt, Suitt Construction Co., Inc	96–2673	08/23/96
Tractebel, S.A., Kamilche Company, Simpson Paper Company	96–2674	08/23/96
VISA U.S.A., Inc., Plus System, Inc., Plus System, Inc.,Plus System, Inc	96–2681	08/23/96
TPG Partners, L.P., Cianfranco Castiglioni, Ducati Motorcycles S.p.a., Cagiva S.p.a., Cagiva Motorc	96–2684	08/23/96
Neil and Debra Kornswiet, Aames Financial Corporation, Aames Financial Corporation	96–2689	08/23/96
Regis Corporation, Supercuts, Inc., Supercuts, Inc	96–2694	08/23/96
Coach USA, Inc., George D. Kamins, Yellow Cab Services Corporation	96–2698	08/23/96
George D. Kamins, Coach USA, Inc., Coach USA, Inc	96–2699	08/23/96
Maple Leaf Foods Inc., Pioneer French Banking Co. Inc., Pioneer French Banking Co. Inc	96–2701	08/23/96
Summit Ventures IV, L.P., Robert D. Harris, Harris Research, Inc	96–2703	08/23/96
Northland Telecommunications Corporation, Marcus Cable Company, L.P., Marcus Cable Associates, L.P	96–2707	08/23/96
Alliance Entertainment Corp., Wasserstein Perella Group, Inc., Red Ant LLC	96–2711	08/23/96

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–23238 Filed 9–10–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. HHS Acquisition Regulation—HHSAR Part 324—Protection of Privacy and Freedom of Information—Extension no change—0990–0136—The confidentiality of Information requirements are needed to prevent improper disclosure of confidential data. *Respondents:* State or local governments, Business or other for-profit, non-profit institutions; *Annual Number of Responses:* 638; Average Burden per *Response:* 8 hours; *Estimated burden:* 5,104 hours.

2. HHS Acquisition Regulation—HHSAR Part 316—Types of Contracts—Extension no change—0990–0138—The Negotiated Overhead Rate—Fixed clause is needed since fixed rates are authorized by OMB Circular and a clause is not provided in the Federal Acquisition Regulation (FAR). *Respondents:* business or other for-profit, non-profit institutions; State, Local or Tribal government; *Annual Number of Responses:* 520; *Average Burden per Response:* 10 hours; *Estimated Burden:* 5,200 hours.

OMB Desk Officer: Allison Eydt.

Copies of the Information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Officer Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington DC 20201. Written comments should be received within 30 days of this notice.

Dated: August 30, 1996.

Dennis P. William,

Deputy Assistant Secretary, Budget.

[FR Doc. 96–23114 Filed 9–10–96; 8:45 am]

BILLING CODE 4150–04–M

Health Care Financing Administration

[ORD–091–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act

July 1996.

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: This notice identifies proposals submitted during the month of July 1996 under the authority of section 1115 of the Social Security Act and those that were approved, disapproved, pending, or withdrawn during this time period. (This notice can be accessed on the Internet at HTTP://WWW.HCFA.GOV/ORD/ORDHP1.HTML.)

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, Mail Stop C3–11–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Susan Anderson (410) 786–3996.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the Federal Register (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

As part of our procedures, we publish a notice in the Federal Register with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to a grant solicitation or other competitive process are reported as received during the month that such grant or bid is awarded, so as to prevent interference with the awards process.

II. Listing of New, Pending, Approved, and Withdrawn Proposals for the Month of July 1996

A. Comprehensive Health Reform Programs

1. New Proposals

No new proposals were received during the month of July.

2. Pending Proposals

We have included a complete listing of pending proposals.

Demonstration Title/State: Better Access for You (BAY) Health Plan Demonstration—Alabama.

Description: Alabama proposes to create a mandatory managed care delivery system in Mobile County for non-institutionalized Medicaid beneficiaries and an expansion population of low-income women and children. The network, called the Bay Health Network, would be administered by the PrimeHealth Organization, which is owned by the University of South Alabama Foundation. The State also proposes to expand family planning benefits for pregnant women whose income is less than 133 percent of the Federal poverty level.

Date Received: July 10, 1995.

State Contact: Vicki Huff, Director, Managed Care Division, Alabama Medicaid Agency, P.O. Box 5624, Montgomery, AL 36103–5624, (334) 242–5011.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations. Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Arizona Health Care Cost Containment System (AHCCCS)—Arizona.

Description: Arizona proposes to expand eligibility under its current section 1115 AHCCCS program to individuals with incomes up to 100 percent of the Federal poverty level.

Date Received: March 17, 1995.

State Contact: Mabel Chen, M.D., Director, Arizona Health Care Cost Containment System, 801 East Jefferson, Phoenix, AZ 85034, (602) 271–4422.

Federal Project Officer: Joan Peterson, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26. 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: The Georgia Behavioral Health Plan—Georgia.

Description: Georgia proposes to provide behavioral health services under a managed care system through a section 1115 demonstration. The plan would be implemented by regional boards that would contract with third party administrators to develop a network of behavioral health providers. The currently eligible Medicaid population would be enrolled in the program and would have access to a full range of behavioral health services. Once the program realizes savings, the State proposes to expand coverage to individuals who are not otherwise eligible for Medicaid.

Date Received: September 1, 1995.

State Contact: Margaret Taylor, Coordinator for Strategic Planning, Department of Medical Assistance, 1 Peachtree Street, NW, Suite 27–100, Atlanta, GA 30303–3159, (404) 657–2012.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Demonstration Title/State: Community Care of Kansas—Kansas.

Description: Kansas proposes to implement a ''managed cooperation demonstration project'' in four predominantly rural counties, and to assess the success of a non-competitive managed care model in rural areas. The demonstration would enroll persons currently eligible in the Aid to Families with Dependent Children (AFDC) and AFDC-related eligibility categories, and expand Medicaid eligibility to children ages 5 and under with family incomes up to 200 percent of the Federal poverty level.

Date Received: March 23, 1995.

State Contact: Karl Hockenbarger, Kansas Department of Social and Rehabilitation Services, 915 Southwest Harrison Street, Topeka, KS 66612, (913) 296–4719.

Federal Project Officer: Jane Forman, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–21–04, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Louisiana Health Access—Louisiana.

Description: Louisiana proposes to implement a fully capitated statewide managed care program. A basic benefit package and a behavioral health and pharmacy wrap-around would be administered through the managed care plans. The State intends to expand Medicaid eligibility to persons with incomes up to 250 percent of the Federal poverty level; those with incomes above 133 percent of the Federal poverty level would pay all or a portion of premiums.

Date Received: January 3, 1995.

State Contact: Carolyn Maggio, Executive Director, Bureau of Research and Development, Louisiana Department of Health and Hospitals, P.O. Box 2870, Baton Rouge, LA 70821–2871, (504) 342–2964.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Maryland Medicaid Reform Proposal—Maryland.

Description: A statewide section 1115 demonstration proposal has been developed to: provide a patient-focused system through managed care entities; build on the strengths of the current Maryland health care system; provide comprehensive, prevention-orientated systems of care; hold Managed Care Organizations (MCOs) accountable for high-quality care; and achieve better value and predictability for State expenditures.

Date Received: May 3, 1996.

State Contact: Mary Mussman, M.D., M.P.H., Acting Executive Director, Center for Health Program Development and Management, Social Sciences Building, Room 309A, 5401 Wilkens Avenue, Baltimore, MD 21228–5398, (410) 455–6804.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–36, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Missouri.

Description: Missouri proposes to require Medicaid beneficiaries to enroll in managed care delivery systems, and extend Medicaid eligibility to persons with incomes below 200 percent of the Federal poverty level. As part of the program, Missouri would create a fully capitated managed care pilot program to serve non-institutionalized persons with permanent disabilities on a voluntary basis.

Date Received: June 30, 1994.

State Contact: Donna Checkett, Director, Division of Medical Services, Missouri Department of Social Services, P.O. Box 6500, Jefferson City, MO 65102–6500, (314) 751–6922.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Community Care Systems—New Hampshire.

Description: The State submitted a revised proposal for ''Community Care Systems.'' This system will provide capitated, managed acute care services not included in the health plan service package. The State proposed to implement this program in three phases: Phase 1 will enroll AFDC and AFDC-related children and families; Phase 2 will enroll the elderly population; and Phase 3 will enroll disabled adults and disabled children. The current waiver request is for Phase 1 only.

Date Received: June 5, 1996.

State Contact: Lorrie Lutz, Planning and Policy Development, State of New Hampshire, Department of Health and Human Services, 6 Hazen Drive, Concord, NY 03301–6505, (603) 271–4478.

Federal Project Officer: Cindy Shirk, Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: The Partnership Plan—New York.

Description: New York proposes to move most of the currently eligible Medicaid population and Home Relief (General Assistance) populations from a primarily fee-for-service system to a managed care environment. The State also proposes to establish special needs plans to serve individuals with HIV/AIDS and certain children with mental illnesses.

Date Received: March 17, 1995.

State Contact: Richard T. Cody, Deputy Commissioner, Division of Health and Long Term Care, 40 North Pearl Street, Albany, NY 12243, (518) 474–9132.

Federal Project Officer: Debbie Van Hoven, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: State of Texas Access Reform (STAR)— Texas.

Description: Texas is proposing a section 1115 demonstration that will restructure the Medicaid program using competitive managed care principles. A focal point of the proposal is to utilize local governmental entities (referred to as Intergovernmental Initiatives (IGIs)) and to make the IGI responsible for designing and administering a managed care system in its region. Approximately 876,636 new beneficiaries would be served during the 5-year demonstration in addition to the current Medicaid population. Texas proposes to implement the program in June 1996.

Date Received: September 6, 1995.

State Contact: Cathy Rossberg, State Medicaid Office, P.O. Box 13247, Austin, TX 78711, (512) 502–3224.

Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Section 1115 Demonstration Waiver for Medicaid Expansion—Utah.

Description: Utah proposes to expand eligibility for Medicaid to all individuals with incomes up to 100 percent of the Federal poverty level (subject to limited cost sharing) and to enroll all Medicaid beneficiaries in managed care plans. The State also proposes to streamline eligibility and administrative processes and to develop a subsidized small employer health insurance plan.

Date Received: July 5, 1995.

State Contact: Michael Deily, Acting Division Director, Utah Department of Health, Division of Health Care Financing, 288 North 1460 West, P.O. Box 142901, Salt Lake City, UT 84114–2901, (801) 538–6406.

Federal Project Officer: David Walsh, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

3. Approved Proposals

No conceptual proposals were approved nor grant proposals awarded during the month of July. The following comprehensive health reform proposal was approved during the month of July:

Demonstration Title/State: MediPlan Plus—Illinois.

Description: Illinois' section 1115 demonstration program, ''MediPlan Plus'' seeks to increase access and quality of health care for 1.1 million of the State's Medicaid beneficiaries and limit rising costs through the increased use of managed care. Illinois intends to contract with a mix of health maintenance organizations (HMOs), managed care community networks (MCCNs), and enrolled managed care providers that incorporate Federally Qualified Health Centers, Rural Health Clinics, and physicians who agree to provide primary care case management services. In addition, as a transition to managed care, for a limited period, community providers who are interested in forming a MCCN will be permitted to participate as a Prepaid Health Plan in order to gain incremental experience in operating a managed care delivery system. MediPlan Plus will be implemented statewide. In areas where MCCN capacity exists, the State will be given a waiver of HMO freedom-of-choice and exemptions from the lock-in provisions and the 75/25 composition provision. In areas where there is not sufficient MCCN access, only the waivers permissible through the 1915(b) program (freedom-of-choice) will be granted.

Date Received: September 14, 1994.

Date Approved: July 12, 1996.

State Contact: George Hovanec, Medicaid Director, Medical Operations, Department of Public Aid, 201 South Grand Avenue, East, Third Floor, Springfield, IL 62763–0001, (217) 782–2570.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. Disapproved Proposals

No comprehensive health reform proposals were disapproved during the month of July.

5. Withdrawn Proposals

No comprehensive health reform proposals were withdrawn during the month of July.

B. Other Section 1115 Demonstration Proposals

1. New Proposals

The following new proposals were received during the month of July:

Demonstration Title/State: Continuing Care Networks (CCN)

Demonstration—Monroe County, New York.

Description: The CCN project is designed to test the efficiency and effectiveness of financing and delivery systems which integrate primary, acute and long term care services under combined Medicare and Medicaid capitation payments. Participants will be both Medicare only, and dually eligible Medicare/Medicaid beneficiaries, who are 65 or older. Enrollment will be voluntary for all participants.

Date Received: July 1, 1996.

State Contact: C. Christopher Rush, Assistant Bureau, Director, Bureau of Long Term Care, Division of Health and Long Term Care, New York State Department of Social Services, 40 North Pearl Street, Albany, New York 12243–0001, (518) 473–5507.

Federal Project Officer: Kay Lewandowski, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–23–04, 7500 Security Boulevard, Baltimore, MD 21244–1850.

2. Pending Proposals

We have included a complete listing of pending proposals.

Demonstration Title/State: Alternatives in Medicaid Home Care Demonstration—Colorado.

Description: Colorado proposes to conduct a pilot project that eliminates the restriction on provision of Medicaid home health services in locations other than the beneficiary's place of residence. The proposal would also permit nursing aides to perform functions that historically have been provided only by skilled nursing staff. Medicaid beneficiaries participating in the project will be adults (including both frail elderly clients and younger clients with disabilities) who can live independently and self-direct their own care. The project would provide for delegation of specific functions from nurses to certified nurses aides, pay nurses for shorter supervision and monitoring visits, and allow higher payments to aides performing delegated nursing tasks. Currently, home health agency nursing and nurse aide services are paid on a per visit basis. Each visit is approximately 2–4 hours in duration, and recipients must require skilled, hands-on care.

Date Received: June 3, 1995.

State Contact: Dann Milne, Director, Department of Health Care Policy and Financing, 1575 Sherman Street, Denver, CO 80203–1714, (303) 866–5912.

Federal Project Officer: Phyllis Nagy, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration/Title: Integrated Care and Financing Project Demonstration—Colorado.

Description: Colorado proposes to conduct an Integrated Care and Financing Project demonstration. Specifically, the Colorado Department of Health Care Policy and Financing proposes to add institutional and community-based long-term care services to a health maintenance organization (HMO) and make the HMO responsible for providing comprehensive medical and supportive services through one capitated rate. The project would include all Medicaid eligibility groups, including individuals with dual eligibility.

Date Received: September 28, 1995.

State Contact: Dann Milne, Office of Long-Term Care System Development, State of Colorado Department of Health Care Policy and Financing, 1575 Sherman Street, Denver, Co 80203–1714, (303) 866–5912.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Georgia's Children's Benefit Plan—Georgia.

Description: Georgia submitted a section 1115 proposal entitled ''Georgia Children's Benefit Plan'' to provide preventive and primary care services to children aged 1 through 5 living in families with incomes between 133 percent and 185 percent of the Federal poverty level. The duration of the project is 5 years with proposed project dates of July 1, 1995 to June 30, 2000.

Date Received: December 12, 1994.

State Contact: Jacquelyn Foster-Rice, Georgia Department of Medical Assistance, 2 Peachtree Street Northwest, Atlanta, GA 30303–3159, (404) 651–5785.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Family Planning Services Section 1115 Waiver Request—Michigan.

Description: Michigan seeks to extend Medicaid eligibility for family planning services to all women of childbearing age with incomes at or below 185 percent of the Federal poverty level, and to provide an additional benefit package consisting of home visits, outreach services to identify eligibility, and reinforced support for utilization of services. The duration of the project is 5 years.

Date Received: March 27, 1995.

State Contact: Gerald Miller, Director, Department of Social Services, 235 South Grand Avenue, Lansing, MI 48909, (517) 335–5117.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–24–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Montana Mental Health Access Plan—Montana.

Description: Montana proposes to provide all mental health services for current Medicaid-eligible individuals through managed care and to expand Medicaid eligibility to persons with incomes up to 200 percent of the Federal poverty level. Newly eligible individuals would receive only mental health benefits, and would not be eligible for other health services under the demonstration. A single statewide contractor would provide the mental health services and also determine eligibility, perform inspections, and handle credentialing.

Date Received: June 16, 1995

State Contact: Nancy Ellery, State Medicaid Director, Department of Social and Rehabilitation Services, P.O. Box 4210, 111 North Sanders, Helena, MT 59604–4210, (406) 444–4540.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Family Planning Proposal—New Mexico.

Description: New Mexico proposes to extend Medicaid eligibility for family planning services to all women of childbearing age with incomes at or below 185 percent of the Federal poverty level.

Date Received: November 1, 1994.

State Contact: Bruce Weydemeyer, Director, Division of Medical Assistance, P.O. Box 2348, Santa Fe, NM 87504–2348, (505) 827–3106.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–24–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: CHOICES—Citizenship, Health, Opportunities, Interdependence, Choices and Supports—Rhode Island.

Description: Rhode Island proposes to consolidate all current State and Federal funding streams for adults with developmental disabilities under one program using managed care/managed competition.

Date Received: April 5, 1994.

State Contact: Susan Babin, Department of Mental Health, Retardation, and Hospitals, Division of Developmental Disabilities, 600 New London Avenue, Cranston, RI 02920. (401) 464–3234.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Family Planning Services Eligibility Requirements Waiver—South Carolina.

Description: South Carolina proposes to extend Medicaid coverage for family planning services for 22 additional months to postpartum women with monthly incomes under 185 percent of the Federal poverty level. The objectives of the demonstration are to increase the number of reproductive age women receiving either Title XIX or Title X funded family planning services following the completion of a pregnancy, increase the period between pregnancies among mothers eligible for maternity services under the expanded eligibility provisions of Medicaid, and estimate the overall savings in Medicaid spending attributable to providing family planning services to women for 2 years postpartum. The duration of the proposed project would be 5 years.

Date Received: May 4, 1995.

State Contact: Eugene A. Laurent, Executive Director, State Health and Human Services Finance Commission, P.O. Box 8206, Columbia, SC 29202–8206, (803) 253–6100.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–24–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Wisconsin.

Description: Wisconsin proposes to limit the amount of exempt funds that may be set aside as burial and related expenses for SSI-related Medicaid beneficiaries.

Date Received: March 9, 1994.

State Contact: Jean Sheil, Division of Economic Support, Wisconsin Department of Health and Social Services, 1 West Wilson Street, Room 650, P.O. Box 7850, Madison, WI 53707, (608) 266–0613.

Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–16–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Wisconsin Partnership Program—Wisconsin.

Description: Wisconsin has submitted Medicare section 222 demonstration and Medicaid section 1115 waiver requests to implement the ''Wisconsin Partnership Program'' in specific counties of the State. This program will test two innovative models of care, one for frail elderly and one for persons with disabilities, utilizing a multi-disciplinary team to manage care. The team is to include the beneficiary, a nurse practitioner, the beneficiary's choice of primary care physician, and a social worker or independent living coordinator. Consumer choice of care, settings and the manner of service delivery is a key component of the program. The demonstration will test the use of consumer-defined quality indicators to measure and improve the quality of service provided to people who are elderly and people with disabilities.

Date Received: February 28, 1996.

State Contact: Mary Rowin, State of Wisconsin, Department of Health and Social Services, 1 West Wilson Street, P.O. Box 7850, Madison, WI 53707, (608) 261–8885.

Federal Contact: William Clark, Health Care Financing Administration, Office of Research and Demonstrations, Office of Beneficiary and Program Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

3. Approved Proposals

No conceptual or other proposals were approved during the month of July.

4. Disapproved Proposals

No proposals were disapproved during the month of July.

5. Withdrawn Proposals

No proposals were withdrawn during the month of July.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments)

Dated: August 15, 1996.

Barbara Cooper,

Acting Director, Office of Research and Demonstrations.

[FR Doc. 96–23115 Filed 9–10–96; 8:45 am]

BILLING CODE 4120–01–P

[OPL–011–N]

Medicare Program; September 30, 1996, Meeting of the Practicing Physicians Advisory Council

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council. This meeting is open to the public.

DATES: The meeting is scheduled for September 30, 1996, from 9 a.m. until 5 p.m. E.D.T. (The winter meeting is scheduled on December 16, 1996, in Washington, DC.)

ADDRESSES: The meeting will be held in the Auditorium, 1st Floor, Health Care Financing Administration Building, 7500 Security Boulevard, Baltimore, Maryland 21244.

FOR FURTHER INFORMATION CONTACT: Samuel Shekar, M.D., Executive Director, Practicing Physicians Advisory Council, Room 425–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 260–5463.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act, as added by section 4112 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, effective on November 5, 1990), to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes.

The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Health Care Financing Administration not later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare or Medicaid in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and under served urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before the end of the 2-year term.

The Council held its first meeting on May 11, 1992.

The current members are: Richard Bronfman, D.P.M.; Wayne R. Carlsen, D.O.; Gary C. Dennis, M.D.; Catalina E. Garcia, M.D.; Kenneth D. Hansen, M.D.; Mary T. Herald, M.D.; Ardis Hoven, M.D.; Sandral Hullett, M.D.; Jerilynn S. Kaibel, D.C.; Marie G. Kuffner, M.D.; Marc Lowe, M.D.; Katherine L. Markette, M.D.; Susan Schooley, M.D.; Maisie Tam, M.D.; and Kenneth M. Viste, Jr., M.D. The chairperson is Kenneth M. Viste, Jr., M.D.

The next meeting of the Council will be held on September 30, 1996. The Council agenda will provide for discussion and comment on the following three items:

- Dual Eligibles (Individuals eligible for both Medicare and Medicaid) Issues
- Medicare Transaction System (MTS)
- Utilization and Quality Control Peer Review Organizations (PRO) Quality Improvement Initiatives

Council members will also receive legislative, Managed Care and Medicaid updates. Any individual or organization that wishes to make a 5-minute oral presentation on any one or more of the three issues listed should contact the Executive Director by 12:00 noon, September 16, 1996, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director no later than 12:00 noon, September 20, 1996. For the name, address, and telephone number of the Executive Director, see the **FOR FURTHER INFORMATION CONTACT** section at the beginning of this notice. Anyone who is not scheduled to speak may also submit written comments to the Executive Director by 12:00 noon, September 20, 1996. The meeting is open to the public, but attendance is limited to the space available.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 C.F.R. Part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 3, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 96–23116 Filed 9–10–96; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

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 National Heart, Lung, and Blood Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Review of Dietary Effects on Lipoproteins and Thrombogenic Activity (DELTA) and Dietary Intervention Study in Children (DISC) cooperative agreements.

Date: October 8–9, 1996.

Time: 7:30 p.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland.

Contact Person: Anthony M. Coelho, Jr., Ph.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate cooperative agreement applications.

This meeting 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.

(Catalog of Federal Domestic Assistance Programs Nos. 93.838, Heart and Vascular Diseases Research; 93,838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated September 4, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–23056 Filed 9–10–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Closing Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: September 13, 1996.

Time: 1:00–3:00 pm.

Place: 6120 Executive Blvd, Rockville MD 20892 (telephone conference call).

Contact Person: Craig A. Jordan, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPA Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda MD 20892–7180, 301–496–8693.

Purpose Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion 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 could constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 4, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–23057 Filed 9–10–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Closed Meeting

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 National Institute on Drug Abuse Special Emphasis panel meeting:

Name of Committee: Center Review.

Date: September 26, 1996.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mary C. Custer, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Purpose/Agenda: To evaluate and review grant applications.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4)

and 552b(c)(6), Title 5, U.S.C. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Scientist Development, Research Scientist Development, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health)

Dated: September 5, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–23058 Filed 9–10–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on October 9–11, 1996, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on October 9 from 2 p.m. until 3 p.m. for the discussion of policy issues. The meeting of the full Council will be open to the public on October 10 from 8:30 a.m. until 4:30 p.m. for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders and on October 11 from 8:30 a.m. until approximately 10:00 a.m. for a report on extramural programs of the Division of Human Communication. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Public Law 92–463, the meeting of the Planning Subcommittee on October 9 will be closed to the public from 3 p.m. to adjournment. The meeting of the full Council will be closed to the public on October 10 from 4:30 p.m. to 5 pm and on October 11 from approximately 10 a.m. until adjournment. The meetings will include the review, discussion, and evaluation of individual grant applications and a report on the Division of Intramural Research. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meeting may be obtained from Dr. Craig A. Jordan, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, 6120 Executive Blvd., MSC7180, Bethesda, Maryland 20892, 301–496–8693. A summary of the meeting and rosters of the members may also be obtained from his office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Jordan at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 4, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–23059 Filed 9–10–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) (NIH) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 61 FR 25234, May 20, 1996), is amended to reflect a reorganization within the National Eye Institute (NEI) (HNW). The reorganization consists of the following: (1) establish the Division of Extramural Research (DER) (HNW3); (2) transfer the functions of the Division of Extramural Activities (DEA) (HNW5), the Division of Basic Vision Research (DBVR) (HNW6), and the Division of Collaborative Clinical Research (DCCR (HNW7) to the DER; and (3) abolish DEA, DBVR, and DCCR and all associated fourth- and fifth-echelon organizational components.

Section HN–B, Organization and Functions, is amended as follows: (1) Under the heading *National Eye Institute (HNW),* delete the titles and functional statements for *Division of Extramural Activities (HNW5), Division of Basic Vision Research (HNW6),* and *Division of Collaborative Clinical Research (HNW7)* in the entirety and substitute the following:

Division of Extramural Research (HNW3).

(1) Plans and directs programs of grant, cooperative agreement, and R&D contract support for basic and applied clinical research, training, and career development, concerning the blinding eye diseases, visual disorders, mechanisms of visual function, preservation of sight, and the special health problems and needs of individuals who are partially-sighted or blind; (2) plans and directs the grants and contracts management activities of the Institute, ensuring that all awards are made in accordance with applicable statutes, regulations, and policies; (3) provides the initial scientific merit review of research and training applications and proposals assigned to the Institute; (4) provides the Institute's committee management services, and provides logistical support for the National Advisory Eye Council; (5) provides advice to the Director on all issues relating to extramural program activities; and (6) participates in the planning, development, formulation, evaluation, and administration of the overall programs, policies, and operating procedures of the Institute.

Dated: August 28, 1996.

Harold Varmus,

Director, NIH.

[FR Doc. 96–23060 Filed 9–10–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3857–N–04]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, 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: November 12, 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: Reports Liaison Officer, Sheila E. Jones, Department of Housing and Urban Development, 451 7th Street, SW., Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: For copies of the proposed forms and other available documents: Patricia Mason, 202–708–3226, Extension 4588. This is not a toll-free number.

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: HOPE for Homeownership of Single Family Homes (HOPE 3).

OMB Control Number, if applicable: 2506–0128.

Description of the need for the information and proposed use: This information is needed to assist HUD in monitoring applicants previously awarded HOPE 3 Program Implementation Grants. The Department does not anticipate additional awards for the HOPE 3 Program. This program provides Federal grants to develop and implement homeownership programs for low income people under the Homeownership Opportunities for People Everywhere (HOPE 3) Program.

Agency form numbers, if applicable: SF–424, HUD–40086, 40102–A, 40102–B, 40103, 40104, and 40105.

Members of affected public: State and local governments, nonprofit organizations.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: number of respondents—258; frequency of response—once; hours per response—40.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 4, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–23168 Filed 9–10–96; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3998–N–02]

Public Housing Lease and Grievance Procedures; Notice of HUD Due Process Determinations

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of HUD due process determinations.

SUMMARY: Under section 6(k) of the United States Housing Act of 1937, a housing agency (HA) is generally required to provide a public housing tenant with the opportunity for an administrative hearing before commencement of eviction proceedings in court. The statute and HUD's implementing regulations provide that the HA may bypass the administrative hearing for evictions involving: any activity that threatens the health, safety or right to peaceful enjoyment of the premises of other tenants or employees of the HA; or any drug-related criminal activity on or off such premises. HUD must first make a determination that local law requires a pre-eviction court hearing that provides the basic elements of due process (a ''due process determination''). This notice lists the judicial eviction procedures in three States for which HUD has recently issued a due process determination.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, Assisted Housing Division, Room 8166, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708–2140. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. Individuals may arrange to inspect and copy the documents detailing the legal analysis on which the due process determinations are based by contacting the Assisted Housing Division.

SUPPLEMENTARY INFORMATION:

I. Background

On March 26, 1996 (61 FR 13272), HUD published a final rule in the Federal Register amending its regulations governing public notice and comment rulemaking requirements (24 CFR part 10) and public housing lease and grievance procedures (24 CFR part 966). The final rule added a new paragraph (a)(2)(iii) to § 966.51 which states that ''[f]or guidance to the public, HUD will publish in the Federal Register a notice listing the judicial eviction procedures for which HUD has issued a due process determination.'' Also on March 26, 1996 (61 FR 13276), HUD published a notice in the Federal Register implementing 24 CFR 966.51(a)(2)(iii). The notice provided a State-by-State listing of the due process determinations issued by HUD. Each listing provided a brief description of the judicial eviction procedures required by local law which HUD has determined are consistent with the basic elements of due process as further defined in 24 CFR 966.53(c).

Since publication of the March 26, 1996 notice, HUD has issued two new due process determinations covering the

States of Connecticut and Mississippi. Additionally, HUD has expanded the coverage of its previously issued determination for the State of Massachusetts to account for a recent change in State law. This notice supplements the March 26, 1996, notice by providing a brief description of the judicial eviction procedures in these three States.

II. Judicial Eviction Procedures in the States of Connecticut, Mississippi, and Massachusetts for Which HUD Has Issued a Due Process Determination

Connecticut

A summary process action in the Civil and Housing Divisions of Superior Court under chapter 832 of the Connecticut General Statutes Annotated.

Mississippi

An unlawful entry and detainer action in the County and Circuit Courts under § 89–7–1 *et seq.* of the Mississippi Code Annotated.

Massachusetts

An action for eviction in the Housing, District, and Superior Courts (Trial Courts) under Chapter 239 of the Massachusetts General Laws, and a nuisance eviction action in the Trial Courts under Chapter 139 of the Massachusetts General Laws.

Dated: September 4, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–23167 Filed 9–10–96; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of the Assistant Secretary—Water and Science

Central Utah Project Completion Act; Notice of Intent To Negotiate a Contract Between the Central Utah Water Conservancy District and Department of the Interior To Amend Contract No. 14–06–400–4286 Dated December 28, 1965, and its Supplementary Contract Dated November 26, 1985 Pertaining to the Central Utah Project, UT

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract between the Central Utah Water Conservancy District (CUWCD), and Department of the Interior (DOI) to amend Contract No. 14–06–400–4286 dated December 28, 1965, and its supplementary contract dated November 26, 1985.

SUMMARY: The United States and the CUWCD entered into Contract No. 14–06–400–4286 on December 28, 1965, which was supplemented by contract on November 26, 1985. These contracts provide among other things the terms and conditions whereby Colorado River Storage Project (CRSP) power will be made available for Central Utah Project (CUP) purposes. The enactment of P.L. 102–575, of which titles II through VI comprise the Central Utah Project Completion Act (CUPCA), expanded the purposes of the CUP to include, irrigation water, municipal and industrial water, water conservation, water efficiency improvements, fish and wildlife, recreation, and to provide replacement water for the Daniels Irrigation Company. Since the CRSP power is reserved by the Bureau of Reclamation (Reclamation) for participating project purposes and the CUP is a participating project of the CRSP, the enactment of CUPCA necessitates that amendments to Contract No. 14–06–400–4286 and its supplement be made. It is the intent of the DOI and CUWCD to amend the contracts to be consistent with the provisions of CUPCA, to clarify the procedures whereby CRSP power may be used for project purposes, and to amend such other provisions the parties deem appropriate.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this Federal Register notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237, Internet: rmurray@uc.usbr.gov.

Dated: September 4, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–23026 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–RK–U

Bureau of Land Management

[OR–958–0777–54; GP6–0222; OR–50856]

Public Land Order No. 7215; Proposed Withdrawal for the Pacific Ocean Coastline, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,009.48 acres of public lands from mining for a period of 50 years for the Bureau of Land Management to protect the unique natural resources along the Oregon coastline. The lands have been and will remain open to mineral leasing and to surface entry except to the agricultural land laws.

EFFECTIVE DATE: September 11, 1996.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not the mineral leasing laws, to protect the unique natural resources along the Oregon coastline:

Willamette Meridian

T. 3 S., R. 10 W.,
  Sec. 30, lot 15.
T. 4 S., R. 10 W.,
  Sec. 19, lots 1, 17 and 18;
  Sec. 29, lot 3.
T. 5 S., R. 10 W.,
  Sec. 5, unnumbered lot in NE¼NW¼SW¼ and unnumbered lot in NW¼SE¼SW¼;
  Sec. 6, lot 8;
  Sec. 20, SE¼NE¼.
T. 8 S., R. 11 W.,
  Sec. 3, lot 8.
T. 9 S., R. 11 W.,
  Sec. 4, SW¼SW¼.
T. 13 S., R. 11 W.,
  Sec. 28, lot 9.
T. 14 S., R. 12 W.,
  Sec. 35, SE¼NE¼.
T. 18 S., R. 12 W.,
  Sec. 2, lot 1.
T. 19 S., R. 12 W.,
  Sec. 1, lots 1 and 2.
T. 41 S., R. 13 W.,
  Sec. 6, lot 9;
  Sec. 7, lot 2.
T. 26 S., R. 14 W.,
  Sec. 28, NW¼NE¼.
T. 27 S., R. 14 W.,
  Sec. 29, lot 3.
T. 33 S., R. 14 W.,

Sec. 31, lots 2, 6, and 7, and NE¼SE¼.
T. 34 S., R. 14 W.,
Sec. 6, lot 1;
Sec. 33, lots 1, 2, 3, and 7;
Sec. 34, NW¼NW¼.
T. 38 S., R. 14 W.,
Sec. 4, SE¼SW¼;
Sec. 5, SW¼NE¼;
Sec. 34, SE¼NW¼.
T. 39 S., R. 14 W.,
Sec. 23, NW¼NW¼.
T. 30 S., R. 15 W.,
Sec. 12, NW¼SW¼.
T. 32 S., R. 15 W.,
Sec. 4, lots 1, 2, 3, and 4, S½NE¼NE¼, N½SE¼NE¼, and SW¼SE¼NE¼.
T. 34 S., R. 15 W.,
Sec. 1, lot 1.

The areas described aggregate 1,009.48 acres in Coos, Curry, Lane, Lincoln, and Tillamook Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines the withdrawal shall be extended.

Dated: September 5, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–23248 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–33–P

National Park Service

Public Notice

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing continued soft drink vending sales through machines at Jefferson National Expansion Memorial National Historic Site, St. Louis, Missouri, for a period of five (5) years from April 1, 1996, through March 31, 2001.

EFFECTIVE DATE: November 12, 1996.

ADDRESSES: Interested parties should contact the Superintendent, Jefferson National Expansion Memorial NHS, 11 North Fourth Street, St Louis, Missouri 63102–1882, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract 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 concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on March 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. *et seq*), is entitled to be given preference in the renewal of the contract and in the negotiation of a new proposed contract providing that the existing concessioner submits a responsive 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 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 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 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: July 19, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–23164 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–70–M

Dayton Aviation Heritage Commission; Meeting

ACTION: Notice of Meeting

AGENCY: National Park Service, Interior

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Dayton Aviation Heritage Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: Tuesday, October 1, 1996; 5:15 p.m. to 6:30 p.m.

ADDRESSES: Innerwest Priority Board conference room, 1024 West Third Street, Dayton, Ohio 45407.

This business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the Superintendent, Dayton Aviation, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: William Gibson, Superintendent, Dayton Aviation, National Park Service, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409, or telephone 513–225–7705.

SUPPLEMENTARY INFORMATION: The Dayton Aviation Heritage Commission was established by Public Law 102–419, October 16, 1992.

Dated: September 4, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–23235 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–70–P

Keweenaw National Historical Park Advisory Commission; Meeting

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Keweenaw National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: Tuesday, October 29, 1996; 8:30 a.m. until 4:30 p.m.

ADDRESSES: Keweenaw National Historical Park Headquarters, 100 Red Jacket Road (2nd floor), Calumet, Michigan 49913–0471 (telephone 906–337–3168).

This meeting is open to the public. We will begin with the Chairman's welcome; minutes of the previous meeting; update on the general management plan; update on park activities; old business; new business; next meeting date; adjournment.

FOR FURTHER INFORMATION CONTACT: Superintendent, Keweenaw National Historical Park, William O. Fink, P.O. Box 471, Calumet, Michigan 49913–0471.

SUPPLEMENTARY INFORMATION: The Keweenaw National Historical Park was established by Public Law 102–543 on October 27, 1992.

Dated: September 4, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–23236 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–70–P

Missouri National Recreational River Advisory Group; Meeting

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Missouri National Recreational River Advisory Group. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: Thursday, September 26, 1996; 1:30 p.m.

ADDRESSES: Saint Mary's Catholic Church, Spencer, Nebraska.

AGENDA: (1) Review of public comments received regarding the 39-mile draft general management plan and environmental impact statement; (2) Discussion of National Park Service responses to the public review period written comments; (3) The opportunity for public comment and proposed agenda, date, and time, of the next Advisory Group meeting. The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chair at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chair may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

FOR FURTHER INFORMATION CONTACT: Superintendent Warren Hill, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, or at 402–336–3970.

SUPPLEMENTARY INFORMATION: The Advisory Group was established by the law that established the Missouri National Recreational River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Recreational River. The Missouri National Recreational River is the 39-mile free flowing segment of the Missouri from Fort Randall Dam to the vicinity of Springfield in South Dakota.

Dated: September 4, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–23237 Filed 9–10–96; 8:45 am]

BILLING CODE 4310–70–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Notice of Investment Opportunity

The U.S. Agency for International Development (USAID) has authorized the guaranty of loans to the Republic of Chile, acting through its Ministry of Housing and Urban Development (''Borrower'') as part of USAID's development assistance program. The proceeds of these loans will be used to finance infrastructure and shelter projects for low-income families in Chile. At this time, the Ministry of Finance of the Republic of Chile has authorized USAID to request proposals from eligible lenders for a loan under this program of $26 Million U.S. Dollars (US$26,000,000). The name and address of the Borrower's representatives to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Republic of Chile

Project No: 513–HG–010, Housing Guaranty Loan No: 513–HG–010 B01, Amount: $26,000,000, Attention: Mr. Jose Pablo Arellano Marin, Director de Presupuestos, Ministry of Finance, Teatinos 120, piso 12, Santiago, Chile, Telefax No.: (562) 671–3814 (preferred communication), Telephone No.: (562) 696–1368 or (562) 671–0672

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should submit their bids to the Borrower's representative by *Tuesday, September 24, 1996,* at *12:00 Noon* Eastern Daylight Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Thomas Nicastro, USAID Representative/Chile, Embassy of the United States of America, Ava, Andres Bello 2800, Las Condes, Santiago, Chile, Telefax No: (562) 638–0931 (preferred communication), Telephone No: (562) 330–3708

and

Mr. Kraig Baier, Director, RHUDO, South America, USAID/Quito, Ecuador, c/o American Embassy, Unit 5330, APO AA 34039–3420, Telefax No.: (593) 2–561–228 (preferred communication), Telephone No.: (593) 2–544–365

Mr. Peter Pirnie, U.S. Agency for International Development, Office of Environment and Urban Programs, G/ENV/UP, Room 409, SA–18, Washington, D.C. 20523–1822, Telex No.: 892703 AID WSA, Telefax No.: 703/875–4639 or 875–4384 (preferred communication), Telephone No.: 703/875–4510/4300

For your information the Borrower is currently considering the following terms:

(1) *Amount:* US$26 million.

(2) *Term:* 21 years.

(3) *Grace Period:* Ten years on the repayment of principal (during grace period, semi-annual payments of interest only). If *variable* interest rate, repayment of principal to amortize in equal, semi-annual installments over the remaining 11-year life of the loan. If *fixed* interest rate, semi-annual level payments of principal and interest over the remaining 11-year life of the loan.

(4) *Interest Rate:* Alternatives of *fixed rate,* and *variable rate* are requested.

(a) *Fixed Interest Rate:* If rates are to be quoted based on a spread over an index, the lender should use as its index a long bond, specifically the 6.0% U.S. Treasury Bond due February 15, 2026. Such rate is to be set at the time of acceptance.

(b) *Variable Interest Rate:* To be based on the six-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to convert to fixed. The rate should be adjusted weekly.

(5) *Prepayment:*

(a) Offers should include options for prepayment and mention prepayment premiums, if any.

(b) Only in an extraordinary event to assure compliance with statutes binding USAID, USAID reserves the right to accelerate the loan (it should be noted that since the inception of the USAID Housing Guaranty Program in 1962, USAID has not exercised its right of acceleration).

(6) *Fees:* Offers should specify the placement fees and other expenses, including USAID fees, and Paying and Transfer Agent fees. Lenders are requested to include all legal fees and out-of-pocket expenses in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan.

(7) *Closing Date:* As early as practicable, but not to exceed 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by USAID. The Republic of Chile reserves the right to not accept any bid which, in its estimation, is non-competitive. Disbursements under the loan will be subject to certain conditions required of the Borrower by USAID as set forth in agreements between USAID and the Borrower.

The full repayment of the loans will be guaranteed by USAID. The USAID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the ''Act'').

Lenders eligible to receive the USAID guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for the USAID guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by USAID.

Information as to the eligibility of investors and other aspects of the USAID housing guaranty program can be obtained from: Ms. Viviann Gary, Director, Office of Environment and Urban Programs, U.S. Agency for International Development, Room 409, SA–18, Washington, DC 20523–1822, Telephone: 703–875–4300.

Dated: September 6, 1996.

Michael G. Kitay,

Assistant General Counsel, Bureau for Global Programs, Field Support and Research, U.S. Agency for International Development.

[FR Doc. 96–23359 Filed 9–10–96; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–741, 742, & 743 (Final)]

Melamine Institutional Dinnerware From China, Indonesia, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–741, 742, & 743 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China, Indonesia, and Taiwan of melamine institutional dinnerware, provided for in subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: August 22, 1996.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of melamine institutional dinnerware from China, Indonesia, and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on February 6, 1996, by the American Melamine Institutional Tableware Association (AMITA).[2]

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of these investigations need not file an additional notice of appearance during this final phase of the investigations. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

[1] For purposes of these investigations, ''melamine institutional dinnerware'' is defined as all items of dinnerware (e.g., plates, cups, saucers, bowls, creamers, gravy boats, serving dishes, platters, and trays, but not including flatware products such as knives, forks, and spoons) that contain at least 50 percent melamine by weight and have a minimum wall thickness of 0.08 inch.

[2] The members of AMITA are Continental/SiLite International Co., Oklahoma City, OK; Lexington United Corp. (National Plastics Corp.), Port Gibson, MS; and Plastics Manufacturing Co., Dallas, TX.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on December 13, 1996, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on January 9, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 16, 1996. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 18, 1996, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 20, 1996. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 17, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 17, 1997. On February 3, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 5, 1997, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: September 3, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–23223 Filed 9–10–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–376]

Certain Variable Speed Wind Turbines and Components Thereof; Notice of Issuance of Limited Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Mark D. Kelly, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3106.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.45 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.45 and 210.50).

This patent-based section 337 investigation was instituted by the Commission on May 30, 1995 (60 FR 28167) based on a complaint filed by Kenetech Windpower, Inc., of Livermore, CA. Complainant alleged violation of section 337 in the importation, sale for importation, and/or the sale within the United States after importation, of certain variable speed wind turbines and components thereof, by reason of infringement of claim 131 of U.S. Letters Patent 5,083,039 (''the '039 patent'') and claim 51 of U.S. Letters Patent 5,225,712 (''the '712 patent''), both patents owned by complainant. Enercon GmbH of Aurich, Germany and The New World Power Corporation of Lime Rock, Connecticut were named as respondents.

The presiding administrative law judge (ALJ) held an evidentiary hearing on the merits beginning on January 31, 1996, and issued his final initial determination (ID) finding a violation of section 337 on May 30, 1996. The ALJ found that there had been a sale for importation of the accused products; that claim 131 of the '039 patent has been literally infringed; that claim 51 of the '712 patent was not infringed, either literally or under the doctrine of equivalents; and that complainant's activities with respect to the '039 and '712 patents satisfied the domestic industry requirements of section 337. Respondents filed a petition for review of the ID and the Commission investigative attorney (IA) filed an opposition to the petition for review. On July 17, 1996, the Commission issued a notice of its determination to review certain portions of the ID and requested written submissions on the issues under review and on remedy, the public interest, and bonding. 61 FR 38473 (July 24, 1996).

Submissions on remedy, the public interest, and bonding and the issues under review were received from complainant, respondents, and IA. Complainant, respondents, and the IA also filed reply submissions on those issues. On August 30, 1996, the Commission determined to affirm the ALJ's conclusions on claim interpretation and infringement, thereby finding a violation of section 337.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission also made determinations on the issues of remedy, the public interest, and bonding. The Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicenced entry for consumption of variable speed wind turbines and components thereof manufactured and/or imported by Enercon GmbH of Aurich, Germany and/or The New World Power Corporation of Lime Rock, Connecticut, and that infringe claim 131 of U.S. Letters Patent 5,083,039.

The Commission also determined that the public interest factors enumerated in

subsections 1337(d) and (f) do not preclude the issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the articles in question.

Copies of the Commission's order, the Commission opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: August 30, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–23224 Filed 9–10–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

JTPA Section 402 Migrant and Seasonal Farmworker Standardized Participants Information Reporting (SPIR) System; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed reinstatement collection of the Standardized Participant Information Reporting system (SPIR). A copy of the proposed information collection request (ICR) may be obtained by contacting the addressee listed below.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before November 12, 1996. The Department of Labor is particularly interested in comments which:

* 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;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility, and clarity of the information to be collected; and

* 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 submissions of responses.

ADDRESSEE: Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room N–4641, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219–5500 (VOICE) (this is not a toll-free number) or INTERNET: MAYRANDP@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Employment and Training Administration of the Department of Labor is reinstating its approved JTPA, title IV–A, section 402 Migrant and Seasonal Farmworker Standardized Participant Information Reporting system for a period of three program years (July 1, 1996 to June 30, 1999). This decision stems from favorable experience during both the pilot test year (ending June 30, 1995 with 19 grantees participating) and the first program year (ending June 30, 1996) since the system was fully implemented for all grantees.

II. Current Actions

The proposed ICR will be a continuation of an existing system currently in place and used by all Section 402 grantees as the primary reporting vehicle for individuals enrolled and terminated, their demographic characteristics, training and services provided and outcomes including job placement and employability enhancements. This is a request for a reinstatement of an existing collection from a previously approved ICR.

Type of Review: Reinstatement.

Agency: Employment & Training Administration.

Title: Standardized Participant Information Reporting system for the JTPA Section 402 Migrant and Seasonal Farmworker Programs.

OMB Number: 1205–0350.

Recordkeeping: Grantees shall retain supporting and other documents necessary for the compilation and submission of the SPIR for three years.

Affected Public: Not-for-Profit organizations.

Cite/Reference/Form/etc: The collection instrument is the Standardized Participant Information Record (SPIR) and Instructions. A SPIR Form is provided for optional use in gathering information at the grantee field office level. The SPIR itself is a computer file in a specified form which is submitted by grantees via diskette, modem or INTERNET.

Total Respondents: 53.

Frequency: Quarterly and One-Time Report.

Total Responses: 265 (53 times 5) (There are four quarterly submissions per year plus a fifth submission which includes the 13-week followup data obtained for individuals terminating in the last quarter of the program year.

Average Time per Response: 3.6 additional burden hours. The average time per response varies widely depending on the degree of automation attained by individual grantees. Grantees also vary according to the numbers of individuals served in each program year. If the grantee has a fully developed MIS, the response time is limited to one-time programming plus processing time for each response. All efforts are being directed towards this end, so that response time for reporting will eventually sift down to an irreducible minimum with little human intervention. Currently, it is estimated at 3.6 hours per response.

Estimated Total Burden Hours: 954 hours. (53 respondents times 5 submissions times 3.6 hours each=954 total hours).

Total Burden Cost (capital/startup): No additional Burden Cost for capita/startup as all grantees are currently reporting using the SPIR.

Total Burden Cost (operating/maintaining): $265,000 (53 grantees times $5,000). As noted these costs will vary widely among grantees, from nearly no additional cost to some higher figure depending on the state of

automation attained by each grantee. Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 3, 1996.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

[FR Doc. 96–23049 Filed 9–10–96; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10:00 a.m., Monday, August 5, 1996.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b (c)(2) (internal personnel rules and practices); (c)(6) (personal information where disclosure would constitute a clear invasion of personal privacy), and (9)(B) (disclosure would significantly frustrate implementation of a proposed Agency action * * *).

MATTERS TO BE CONSIDERED: Personnel.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated: Washington, D.C.

By direction of the Board: September 6, 1996.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–23397 Filed 9–9–96; 1:34 pm]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Division of Environmental Biology: Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings.

Name: Advisory Panel for Ecological Studies #1751.

Date & Time: October 2–4, 1996, 8:00 am–5:00 pm each day.

Place: Room 390, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22203.

Contact Person: Dr. James Callahan and Dr. Gaius Shaver, Program Directors, Ecological Studies, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1479.

Agenda: To review and evaluate Ecosystem Studies proposals as part of the selection process for awards.

Name: Advisory Panel for Ecological Studies #1751.

Date & Time: October 9–11, 1996, 8:30 am–5:00 pm each day.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203.

Contact Person: Dr. Scott L. Collins and Dr. Taber Allison, Program Directors, Ecological Studies, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone (703) 306–1479.

Agenda: To review and evaluate Ecology proposals as part of the selection process for awards.

Name: Advisory Panel For Systematic and Population Biology#1753.

Date & Time: October 9–11, 1996, 8:00 am–5:00 pm each day.

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203.

Contact Person: Dr. Mark W. Courtney, Program Director, Systematic and Population Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone (703) 306–1479.

Agenda: To review and evaluate Population Biology proposals as part of the selection process for awards.

Name: Advisory Panel for Long Term Projects in Environmental Biology #1752.

Date & Time: October 21–22, 1996, 8:00 am–5:00 pm each day.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203.

Contact Person: Dr. Meredith Lane, Program Director, Research Collection in Systematics and Ecology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone (703) 306–1483.

Agenda: To review and evaluate Research Collections in Systematics and Ecology proposals as part of the selection process for awards.

Name: Advisory Panel for Systematic and Population Biology #1753.

Date & Time: October 22–25, 1996, 8:00 am–5:00 pm each day.

Place: Rooms 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203.

Contact Person: Dr. James Rodman, Program Director, Systematic and Population Biology, Room 635, Division of Environmental Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone (703) 306–1479.

Agenda: To review and evaluate Systematic Biology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–23203 Filed 9–10–96; 8:45 am]

BILLING CODE 7555–01–M

Proposed Data Collection: Comment Request

Title of Proposed Collection: Evaluation of the Instructional Materials Development Program.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the NSF Clearance Officer on (703) 306–1243.

Comments are invited on (a) whether the proposed 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 proposed collection of information; (c) ways to enhance the quality, utility,and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Abstract: Evaluation of the Instructional Materials Development Program classroom practice in elementary and secondary schools is closely linked with curriculum and instructional materials. Consequently, those who seek to improve educational opportunities and attainment appropriately include a focus on instructional materials development. The national science Foundation (NSF) has long recognized the importance of instructional materials through its support for curriculum development. Recent attention to standards-based systemic reform raises new questions about instructional materials, including attention to development, marketing

and distribution, adoption and implementation, and impact. The purpose of this study is to provide answers to questions related to these topics by gathering information from developers, marketers, school and district decision makers, and teachers.

Respondents and burden hours;

	Number of respondents	Number of responses/respondents	Average burden/responses (in hours)
Developers	180	1	1
Marketers	90	1	1
Customers	135	1	1.5
Teachers	200	1	2

Send written comment to Herman Fleming, Clearance Office, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Written comments should be received by November 4, 1996.

Dated: November 5, 1996.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 96–23113 Filed 9–10–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–263, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (1194) submitted to the Phase I Small Business Innovation Research Program in the areas of Chemical and Transport Systems, Fluid, Particulate, and Hydraulic Systems and Chemical Characterization. In order to review the large volume of proposals, panel meetings will be held on September 26 and 27, 1996 in rooms 375, and 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA. from 8:30 a.m. to 5:00 p.m. each day.

Contact Person: Joseph Hennessey, SBIR Program Manager, SBIR Office, (703) 306–1391, Francis J. Wodarczyk, Program Officer, MPS/CHE, (703) 306–1856, Mihail C. Roco, Program Officer, CTS/ENG, (703) 306–1371, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–23204 Filed 9–10–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(1994).

Date and Time: September 26, 1996, 8:30 a.m.–5:00 p.m.

Place: Room 2072, NCAR—Foothills Laboratory, 3450 Mitchell lane, Boulder, CO.

Type of Meeting: Closed.

Contact Person: Ritchie Coryell, SBIR Program Manager, SBIR Office, (703) 306–1391, Pamela Stephens, Program Officer, Atmospheric Sciences/GEO, (703) 306–1528, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate SBIR Phase I proposals concerning Atmospheric Sciences as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–23206 Filed 9–10–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (1194) submitted to the Phase I Small Business Innovation Research Program in the areas of Next Generation Vehicles, Membranes and Catalysis for Fuel Cells, Gas Storage Technologies, and Microelectronics Manufacturing, Flat Panel Displays. In order to review the large volume of proposals, panel meetings will be held on September 30, 1996 in rooms 310, 320, and 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA from 8:30 a.m. to 5:00 p.m. each day.

Contact Person: Yousef Hashimi, SBIR Program Manager, SBIR Office, (703) 306–1391, Anthony Centodocati, SBIR Program Manager, SBIR Office, (703) 306–1391, Syed Outubuddin, Program Officer, ECS/ENG, (703) 306–1371, Liselotte Schioler, Program Officer, Materials Research/DMR (703) 306–1836, Virginia Ayres, Program Officer, ECS/ENG, (703) 306–1339, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–23205 Filed 9–10–96; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, September 17, 1996.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: The first item is open to the public. The last item is closed to the public under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

6739 Safety Study: The Performance and Use of Child Restraint Systems, Seatbelts, and Air Bags for Children in Passenger Vehicles.

6717 Opinion and Order: *Administrator* v. *Smith*, Docket SE–13796; Disposition of Administrator's Motion to Dismiss Respondent's Untimely Appeal.

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: September 6, 1996.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–23320 Filed 9–6–96; 4:54 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service 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. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company (the licensee) for operation of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, located in Maricopa County, Arizona.

The proposed amendment would modify the technical specifications (TS) to increase the minimum required amount of anhydrous trisodium phosphate (TSP) in the containment baskets. TSP is used to ensure that, following a postulated design basis loss of coolant accident (LOCA), the containment sump pH is maintained greater than or equal to 7.

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. The NRC staff's analysis is presented below.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve any change to the method of operation of any plant equipment or modify any plant equipment. The proposed amendment only affects a passive component that mitigates the consequences of a design basis LOCA, and does not affect the event initiation scenarios for accidents previously evaluated. Furthermore, the proposed amendment ensures that the correct volumes and mass of anhydrous TSP are used such that the post-LOCA emergency core cooling system (ECCS) solution is maintained at a pH above 7, which is the current basis for use of TSP. This basis maintains the existing analysis of consequences, which is that maintaining the ECCS solution above a pH of 7 ensures that the radiological consequences are minimized by preventing significant amounts of iodine released from fuel failures, and subsequently dissolved in the recirculating water, from converting to a volatile form and evolving into the containment atmosphere. Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of an accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not modify the plants' configuration, involve any change to plant equipment, or change the method of plant operation. The proposed amendment does not affect any equipments that are currently assumed as accident initiators. The proposed amendment only increases the amount of TSP, which is a passive component used to mitigate the consequences of an accident, thus no new failure modes are introduced by the proposed amendment. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The current margin of safety is defined by assuring that the ECCS circulating water is maintained above a pH of 7 following a LOCA. The proposed change continues to ensure this condition, therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

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 Chief, 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 _____, 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004. 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 William H. Bateman, Director, Project Directorate IV–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999, 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 June 28, 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 6th day of September 1996.

For the Nuclear Regulatory Commission

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–23194 Filed 9–10–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service 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. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company (the licensee) for operation of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, located in Maricopa County, Arizona.

The proposed amendment would modify the technical specifications (TS) to change (1) The reference method for calculating dose conversion factors (DCFs) to be used in dose calculations, and (2) the upper and lower limits for operating pressurizer pressure to account for new instrument uncertainties and to reduce the allowed operating band.

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. The NRC staff's analysis is presented below.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve any change in the method of operation of any plant equipment or modify any plant equipment. The proposed change to the allowed pressurizer pressure operating band does not add any operating range not previously allowed, nor does it affect the nominal operating pressure. Thus the proposed change does not represent a new or more frequent initiating event or transient. Based on a review of historical plant operating data for pressurizer pressure, limiting the allowed operating band for pressure will not require additional operator action or create additional burden on the operators. Nominal operating pressure is approximately 2250 psia, and pressure deviates only approximately 10 psi from this pressure during normal operation. Additionally, the reactor trip setpoints remain unchanged, thus the proposed change will not affect the probability of a reactor trip. The proposed change to the DCFs would allow use of a more accurate method for determining thyroid dose consequence resulting from postulated accident conditions. This portion of the proposed change does not involve any changes to plant operation or equipment. Therefore, the proposed changes do not involve a significant increase in the probability of an accident.

The proposed change to the allowed pressurizer pressure band would be used in transient and accident analyses for each core reload. The proposed change does not affect the acceptance criteria for the analysis results, thus this portion of the proposed change would not affect the consequences of accidents previously analyzed.

The proposed change to DCFs does not affect the calculated off-site doses to postulated accidents. The new DCFs would only provide more accurate estimates of the potential effects to the thyroid based on the calculated off-site doses.

Based on the above, the proposed changes do not result in 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.

The proposed amendments do not modify the configuration of the units, involve any change to plant equipment, or change the methods of plant operation. Thus, the proposed changes do not result in any new failure modes for any plant system or component. Therefore, the amendment 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 change associated with operating pressurizer pressure limits will implement more restrictive acceptance criteria in surveillance procedures to ensure that safety analysis assumptions are maintained. The more restrictive range of operation has been analyzed and is bounded by the existing safety analyses. The use of new DCFs in dose effects calculations do not change any of the safety limits for existing analyses. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

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 Chief, 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 October 11, 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004. 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 William H. Bateman, Director, Project Directorate IV–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999, 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 June 17, 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 6th day of September 1996.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–23195 Filed 9–10–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 40–8902]

Atlantic Richfield Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Finding of no significant impact, Notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to amend NRC Source Material License SUA–1470 to allow the licensee, Atlantic Richfield Company, to dispose of mill waste contaminated by polychlorinated biphenyls (PCBs) at its Bluewater uranium mill and tailings site in Cibola County, New Mexico. An Environmental Assessment was performed by the NRC staff in accordance with the requirements of 10 CFR Part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth R. Hooks, Uranium Recovery Branch, Mail Stop TWFN 7–J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301/415–7777

SUPPLEMENTARY INFORMATION:

Background

Atlantic Richfield Company (ARCO) is reclaiming its Bluewater Mill site under a reclamation plan approved by the U.S. Nuclear Regulatory Commission on August 10, 1990. The plan covers the Main Tailings Pile (about 250 acres), the Carbonate Tailings Pile (about 50 acres), the Acid Tailings Pile (about 25 acres) and seven synthetically lined evaporation ponds. The tailings piles contain roughly 25 million tons of tailings. Modifications to the reclamation plan were approved January 30, 1992; May 27, 1994; July 20, 1994; July 20, 1995; July 8, 1996; and July 18, 1996. The groundwater Corrective Action Plan for the Bluewater Mill site was approved by the NRC on August 18, 1989 and groundwater Alternate Concentration Limits were approved by the NRC on February 22, 1996.

Summary of the Environmental Assessment

Identification of the Proposed Action

By letter dated May 25, 1995, ARCO requested NRC approval of the disposal of mill waste containing PCBs at the Bluewater Mill site. ARCO characterized the waste as being composed primarily of spillage of ore residues from the mill ore crushing and milling circuit, and PCBs from electrical transformers in or adjacent to the mill. The waste is in 145 drums (less than 1200 cubic feet or 100 tons), and would be disposed of in a special disposal cell, backfilled with soil cement, with a clay cap and liner each a minimum of 3 feet thick and designed for 1000 year containment, within Disposal Area No. 1. Disposal Area No. 1 has an additional 1 foot of compacted engineered fill as a bottom liner and 2 feet as a top cover. There are no free liquids in the drums. The Ra-226 content of the waste material varies up to about 200 pCi/gram, with an average of about 10 pCi/gram. Based on samples taken during cleanup of the waste, the PCB concentration within the drums is estimated by ARCO to be greater than 50 ppm but less than 500 ppm.

Need for the Proposed Action

There are presently no commercial waste disposal sites in the United States licensed to accept radioactive waste contaminated with PCBs. The only current alternatives to permanent onsite disposal are relocation to a separate disposal area (which would have to be licensed by the NRC and permitted by the EPA), or temporary storage onsite or in another location (again requiring licensing and permitting) until a permanent disposal site is available.

Environmental Impacts of the Proposed Action

The ARCO Bluewater Mill site is licensed by the NRC under Materials License SUA–1470 to possess byproduct material in the form of uranium waste tailings as well as other radioactive wastes generated by past milling operations. Except for the PCBs, the waste could have been disposed of in the tailings piles as was done with other mill debris and windblown cleanup material, or with other drummed waste which was disposed of in a similar cell in Disposal Area No. 1 (ARCO Letter to NRC, February 3, 1995; NRC letter to ARCO, July 8, 1996). The PCB-contaminated waste is in drums, and would make a negligible contribution to the radon releases or groundwater contamination from the tailings impoundments even in the event of failure of the drums.

Disposal of PCB-contaminated material at the Bluewater site was evaluated by EPA Region 6. ARCO submitted documentation concerning its disposal plans to the EPA in letters dated October 9, 1995; January 26, 1996; and July 8, 1996. The EPA published a copy of its proposed approval to permit land dispose of PCBs at ARCO's Bluewater Mill site for a 45-day public comment period on April 30, 1996 in the Albuquerque (New Mexico) Journal newspaper. By letter dated June 24, 1996, the EPA notified ARCO that no comments were received during the public comments period and the EPA was issuing final approval of the disposal. DOE notified ARCO that it would accept the site, subject to certain conditions including EPA approval, in a letter dated February 23, 1996.

Alternatives to the Proposed Action

Based on its review of the request, the NRC staff has concluded that from the radiological standpoint there are no significant environmental impacts associated with the proposed action. The principal alternative to the proposed action would be to deny the requested action. The NRC staff has determined that the environmental impacts of the proposed action are less than the alternative actions. Therefore, there is no need to further evaluate alternatives to the proposed action.

Agencies and Persons Consulted

In preparing this Environmental Assessment, the NRC staff held discussions with personnel of EPA Region 6 and the New Mexico Environment Department, which has discharge permits pertaining to the Bluewater site. The staff also attended meetings between ARCO and EPA Region 6 on November 1, 1995 and December 7, 1995.

Finding of No Significant Impact

The NRC staff has prepared an Environmental Assessment for the proposed amendment of NRC Source Material License SUA–1470. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The Environmental Assessment and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this day of September 1996.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material, Safety and Safeguards

[FR Doc. 96–23193 Filed 9–10–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison 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–39 and DPR–48 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Zion Nuclear Power Station, Units 1 and 2, located in Lake County, Illinois.

The proposed amendments would modify Technical Specification Section 4.3.1.B.4.A.10.a which provides the acceptance criteria for steam generator tube repairs by adding a footnote which references the cleanliness and nondestructive examination requirements as described in CEN–629–P, Revision 00, ''Repair of Westinghouse Series 44 and 51 Steam Generator Tubes Using Leak Tight Sleeves.''

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 amendments requested involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed 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.

The proposed amendment continues to allow the ABB/CE Tungsten Inert Gas (TIG) welded tubesheet sleeves to be used as an alternate tube repair method for Zion Units 1 and 2 Steam Generators along with the process improvements which are proposed to be footnoted within the Technical Specifications. The sleeve configuration was designed and analyzed in accordance with the criteria of Regulatory Guide (RG) 1.121 and Section III of the ASME Code and is unaffected by the enhancements that will be implemented. Fatigue and stress analyses of the sleeved tube assemblies as described in the currently approved Topical Report, CEN–331–P are unaffected by the enhancements being proposed.

Mechanical testing which has shown that the structural strength of the sleeves under normal, faulted, and upset conditions is within the acceptable limits is unaffected by the enhancements being proposed. Leakage rate testing for the tube sleeves which has demonstrated that primary to secondary leakage is not expected during any plant condition is unaffected by the enhancements being proposed. The consequences of leakage through the sleeved region of the tube, including the proposed enhancements, is bounded by the existing steam generator tube rupture (SGTR) analysis included in the Zion Updated Final Safety Analysis Report.

The proposed TS change reflects enhancements to the installation/inspection process which is identified in the currently licensed Topical Report CEN–331–P, Revision 1–P. These enhancements do not increase the probability or consequences of an accident previously evaluated. The new Topical Report specifies that proper cleaning and inspection of the weld zone be performed prior to sleeve installation and eddy current testing has been added as part of the sleeve acceptance criteria to ensure the structural integrity of the tube sleeve weld joint.

The proposed TS change which supports the installation and NDE enhancements of the ABB/CE TIG welded sleeves does not adversely impact any previously evaluated design basis accident. Installation of the sleeves, with the proposed enhancements, can be used to repair degraded tubes by returning the condition of the tubes to their original design basis condition for tube integrity and leak tightness during all plant conditions. Therefore the currently approved sleeving process with the proposed enhancements will not increase the probability of occurrence of an accident previously evaluated.

Therefore, these proposed changes do 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 previously evaluated.

The implementation of the proposed sleeving process will not introduce significant or adverse changes to the plant design basis. The current stress and fatigue analyses of the repair identified in Topical Report CEN–331–P have shown the ASME Code and RG 1.121 allowable values are met and are unaffected by the proposed enhancements. The current TIG welded sleeving design with the proposed enhancements will continue to maintain overall tube bundle structural and leakage integrity at a level consistent with that of the originally supplied tubing. Leak and mechanical testing of the sleeves, are unaffected by the proposed enhancements and continue to support the conclusions that the sleeve retains both structural and leakage integrity during all operating and accident conditions. Repair of a tube with a sleeve, utilizing the proposed enhancements, does not provide a mechanism that results in an accident outside of the area affected by the sleeve.

The proposed change to implement specific sections from Topical Report CEN–629–P will not create a new or different type of accident. The change only reflects enhancements to the currently licensed installation/inspection process and would not change or impact any hypothetical accident previously discussed.

Any hypothetical accident as a result of potential tube or sleeve degradation in the repaired portion of the tube is bounded by the existing SGTR analysis. The sleeve design does not affect any other component or location of the tube outside of the immediate area repaired.

Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The currently licensed TIG welded sleeving repair of degraded steam generator tubes has been shown by analysis to restore the integrity of the tube bundle to its original design basis condition. By implementing the proposed enhancement the consistent quality of the upper sleeve weld has increased reducing the potential for rework and reducing the potential for leaving a weld indication in service.

The proposed change does not involve a reduction to the margin of safety. These enhancements which are identified from specific sections of the Topical Report CEN–629–P reflect enhancements to the installation/inspection process which is currently licensed by the staff. These enhancements would not have any adverse effects on the previously evaluated design transient or accident analysis. The enhancements simply specify cleaning and inspection methods of the sleeve-tube upper weld zone which will ensure the integrity of the pressure boundary.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

Based on the preceding analysis it is concluded that operation of Zion Units 1 and 2, in accordance with the proposed amendment, does not increase the probability of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, nor reduce any margins to plant safety. Therefore, this proposed amendment does not involve a significant hazards consideration as defined in 10 CFR 50.92.

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 amendments requested involve 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 amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 Chief, 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 October 11, 1996, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a

petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them 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 amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

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 Robert A. Capra: 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 Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, 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 amendments dated September 3, 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 Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 5th day of September 1996.

For the Nuclear Regulatory Commission.

Donna M. Skay,

Acting Project Manager Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

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BILLING CODE 7590–01–P

[Docket Nos. 50–295 AND 50–304]

Commonwealth Edison 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–39 and DPR–48 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Zion Nuclear Power Station, Units 1 and 2, located in Lake County, Illinois.

The proposed amendments would remove the uncertainty term from the specified distance and remove the footnote which specifies the time frame it is applicable.

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 amendments requested involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

The proposed change is to provide clarification as to how the F* Distance is ensured at Zion Station. The associated footnote which details the applicable timeframe is being deleted. The discussion added to the Bases section of Technical Specifications will clarify the application of eddy current uncertainty when sizing a new hard roll region and when locating indications within the F* Distance. These changes are administrative in nature and have no impact of the probability or consequences of an accident.

Application of the F* Distance to degraded steam generator tubes will not affect any of the initiators or precursors of any accident previously evaluated. Application of the proposed change will not increase the likelihood that a transient initiating event will occur because transients are initiated by equipment malfunction and/or catastrophic system failure.

As previously discussed in the ComEd submittal (ComEd letter to the NRC dated October 6, 1995, transmitting the Licensing Amendment Request Modifying the F* Distance Definition for Zion Units 1 and 2), the proposed change will allow an F* Distance of 1.05 inches to be applied to disposition steam generator tubes that are degraded in the tubesheet roll transition region. The F* Distance specifies a minimum length of tubing which must be free from any indication of degradation. Below the F* Distance, any type or size of indication, including complete circumferential through wall cracking, will not impact the structural integrity of the tube with respect to pull out forces during normal operation or accident conditions, and does not significantly affect the leakage behavior of the tube.

The Feedwater Line Break (FLB) accident was used as the limiting event in the evaluation of the F* Distance. The FLB pressure differential of 2650 psi maximizes the axial loading on the tube for pull out considerations and is bounding. In addition, the close proximity of the tubesheet to the tube will prevent tube rupture or collapse of the tube in the tubesheet span. Because application of the F* Distance will ensure that degraded tubes will provide the same structural integrity as an original undegraded tube during normal operation and accident conditions, the probability of occurrence of an accident previously evaluated is not significantly increased.

Application of the F* Distance will not significantly increase the consequences of any accident previously evaluated. The F* Distance ensures that sufficient length of undegraded tube exists to maintain structural integrity and preclude significant leakage. Due to the proximity of the tubesheet to the tube, any leakage from degradations below the F* Distance would be negligible and would be well below the Technical Specification limits established for steam generator leakage. Tube rupture as a result of indications below the F* Distance is precluded because the tubesheet prevents outward expansion of the tube in response to internal pressure.

The relationship between the tubesheet region leak rate at the most limiting postulated accident conditions relative to that for normal plant operating conditions has been assessed. For the postulated leak source within the roll expansion, increasing the differential pressure on the tube wall increases the driving head for the leak; however, it also increases the tube to tubesheet loading.

For a leak source below the F* Distance, the maximum assumed pressure differential results in an insignificant leak rate relative to that which could be associated with normal plant operation. This is a result of the increased tube to tubesheet loading associated with the increased differential pressure. Thus for a circumferential indication within the roll expansion that is left in service in accordance with the F* Distance, any leakage under accident conditions would be less than that experienced under normal operating conditions. Therefore, any leakage under accident conditions would be less than the existing Technical Specification leakage limit, which is consistent with accident analysis assumptions.

Steam generator tube integrity must be maintained under the postulated loss of coolant accident condition of secondary-to-primary differential pressure. Based on tube collapse strength characteristics, the constraint provided to the tube by the tubesheet gives a margin between the tube collapse strength and the limiting secondary-to-primary differential pressure condition, even in the presence of circumferential or axial indications. The maximum secondary-to-primary differential pressure during a postulated LOCA is 1005 psid. This value is significantly below the residual preload between the tubes and the tube sheet. Therefore, no significant secondary-to-primary leakage would be expected to occur.

Application of the F* Distance will not affect the ability to safely shut down the operating unit and/or mitigate the consequences of an accident. Additionally, the proposed revisions will not necessitate changes to plant operating procedures during normal operation or the emergency procedures governing accident conditions and plant recovery.

Since the proposed change only clarifies how the F* Distance is ensured at Zion Station, the proposed change will not increase the probability of occurrence or consequences of any accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Technical Specifications do not involve the addition of any new or different types of safety related equipment nor do they involve the operation of any equipment required for safe operation of the facility in a manner different from those addressed in the UFSAR. No safety related equipment or function will be altered as a result of the proposed changes. Also, the procedures governing normal plant operation and recovery from an accident are not changed by the application of the F* Distance.

As previously discussed in ComEd's submittal (ComEd letter to the NRC dated October 6, 1995, transmitting the Licensing Amendment Request Modifying the F* Distance Definition for Zion Units 1 and 2), the F* Distance will allow the use of an alternate method to plugging or sleeving to repair steam generator tubes with degradation in the tubesheet region. The F* Distance ensures that the structural integrity of the steam generator tube will be equivalent to the original tube.

The proposed revised F* Distance definition is consistent with the original analysis performed to justify the acceptability of the F* Distance in dispositioning steam generator tubes with degradation in the tube sheet region. Because the size of a new hard roll joint will depend on the effective size of the mechanical roller used to install the joint, no eddy current uncertainty need be considered. For inspections following the new hard roll, the eddy current uncertainty will not be required since Zion will repair all tubes with indications in the mechanical roll region.

Therefore, it has been concluded that the proposed revision does not create the possibility of a new or different type of accident is created.

3. The proposed changes do not involve a significant reduction in a margin of safety.

Plant safety margins are established through Limiting Conditions for Operation (LCOs), limiting safety system settings, and safety limits specified in Technical Specifications. There will be no changes to the LCOs, limiting safety system settings, or the safety limits as a result of the proposed changes. Application of the F* Distance will allow degraded steam generator tubes to be repaired by an alternative method to plugging or sleeving. Steam generator tube plugging decreases the total primary reactor coolant flow rate and heat transfer capability of the steam generator. While steam generator tube sleeving only slightly reduces the reactor coolant flow rate, large numbers of sleeves can have a measurable effect on flow rate and

can complicate steam generator tube inspection activities.

Application of the F* Distance will allow a repair method that will restore the integrity of degraded steam generator tubes and will not adversely affect primary system flow rate or heat transfer capability. Application of the F* Distance will preserve the heat transfer capability of the steam generators and will maintain the design margins assumed in the analyses contained in the UFSAR. The proposed revised F* Distance definition is consistent with the original analysis performed to justify the application of the F* criteria in the dispositioning of steam generator tubes with degradation in the tube sheet region. The revision of the F* Distance is administrative in nature.

Based on the above discussion it is concluded that the proposed changes will not significantly reduce a margin of safety.

Based upon the preceding analysis it is concluded that the proposed amendment does not increase the probability of an accident previously evaluated, does not create the possibility of a new or different kind of accident from that previously evaluated, nor reduces any margin to plant safety. Therefore, this proposed amendment does not involve a significant hazards consideration as defined in 10 CFR 50.92.

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 amendments requested involve 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 amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 Chief, 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 October 11, 1996, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them 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 amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

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 Robert A. Capra: 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 Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, 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 amendments dated August 16, 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 Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 5th day of September 1996.

For the Nuclear Regulatory Commission.

Donna M. Skay,

Acting Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

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BILLING CODE 7590–01–P

[DOCKET NO. 50–415]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–29 issued to Entergy Operations, Inc. (the licensee) for operation of Grand Gulf Nuclear Station, Unit 1 (GGNS) located in Claiborne County, Mississippi.

The proposed amendment would allow the licensee to perform the surveillance of the relief mode of operation of each of the 20 safety/relief valves (S/RVs) on the four main steam lines without physically lifting the disk of the valve off the seat at power. The proposed changes are to Surveillance Requirements (SRs) 3.4.4.3, Safety/Relief Valves, 3.5.1.7, Automatic Depressurization System Valves, and 3.6.1.6.1, Low-Low Set Valves, of the Technical Specifications, and the changes would state that the required operation of the valve to verify is that the relief-mode actuator strokes when the valve is manually actuated and the frequency of the SRs would be in accordance with the inservice testing program for the valves.

Each S/RV is a Dikkers, 8×10, direct-acting, spring loaded, safety valve with attached pneumatic actuator for relief-mode operation. Eight of the S/RVs use the relief mode to perform the Automatic Depressurization System (ADS) function. Also, six S/RVs, two of which are also ADS S/RVs, use the relief mode to perform the Low-Low Valve set function.

The licensee submitted an application for amendment dated May 9, 1996, as supplemented by letter August 27, 1996. A Notice of Consideration of Issuance of an Amendment to the license was issued in the Federal Register on June 19, 1996 (61 FR 31177), for the letter of May 9, 1996. The modification to the application in the letter of August 27, 1996, is to (1) state that the frequency of performing the SRs will be ''in accordance with the inservice testing program'' for the valves and (2) delete the word ''required'' for SRs 3.5.1.7 and 3.6.1.6.1.

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 request for amendment 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:

a. No Significant Increase in the Probability or Consequences of an Accident Previously Evaluated Results From This Change

Each refueling outage, a test sample of the population of S/RVs is removed from the plant to perform testing as required by ASME Boiler and Pressure Vessel Code, Section XI. These S/RVs will be stroked in the relief mode during as-found testing, and are therefore verified to operate properly when each S/RV stem is raised by the relief-mode pneumatic actuator. This proposed surveillance verifies proper S/RV relief-mode operation of all installed S/RVs based upon this test sample. This testing, in conjunction with replacement of each S/RV prior to the end of its expected service life, provides reasonable assurance that the installed S/RVs will perform as well as the test population of S/RVs.

After the S/RVs have been replaced in the plant, and after all controls are reconnected, the relief-mode actuator on each newly-installed S/RV will be uncoupled from the S/RV stem, and stroked. This actuator stroke will verify that no damage has occurred to the relief-mode actuator during S/RV transportation from its storage location to its operating location. The direct coupling of the valve stem to disk provides assurance that proper relief actuation will occur when the actuator is operated. The safety-mode components are completely encased within the valve body and bonnet, which provides a rugged structure to prevent damage to these components. The remaining installed S/RVs will continue to be tested for proper control system function as previously required by Technical Specifications. The direct coupling of the S/RV stem to disk provides assurance that proper relief-mode actuation will occur when the actuator is operated. The safety mode of the GGNS S/RVs is not affected by a malfunction of the relief-mode components.

Blockage of each S/RV discharge line will be prevented by the same Foreign Material

Exclusion (FME) controls that exist for other reactor vessel and support systems. These FME controls, combined with the horizontal orientation of the S/RV discharge piping mating surfaces, provide reasonable assurance that discharge line blockage will not occur.

Therefore, no significant increase in the probability or consequences of an accident previously evaluated results from this proposed change.

b. This Change Would Not Create the Possibility of a New or Different Kind of Accident From Any Previously Analyzed

The proposed change demonstrates that each S/RV will perform its intended relief-mode function, which is the intent of the present surveillance. The relief mode of S/RV operation is demonstrated to be operable based upon successful performance of a test population, S/RV component service life, and existing Technical Specification surveillances. No new failure mechanisms to the relief-mode of operation are introduced, as the proposed surveillance verifies relief actuator operability. Plant FME controls, combined with the horizontal orientation of the S/RV discharge piping mating flange, provides reasonable assurance that discharge line blockage will not occur.

This proposed change does not add any new systems, structures, or components, nor does it introduce new S/RV operating modes.

Therefore, this change would not create the possibility of a new or different kind of accident from any previously analyzed.

c. This Change Would Not Involve a Significant Reduction in the Margin of Safety

This proposed change will verify that the relief mode of all installed S/RVs will operate properly based upon demonstrated relief mode performance of a sample of S/RVs. The failure mode of the S/RV relief function would require a failure of either the pneumatic actuator, lifting linkage, or solenoid block. Each of these items has been verified to have a service life exceeding the replacement cycle of each S/RV. Therefore, proper operation of a sample population of S/RVs provides reasonable assurance that the remaining S/RVs would perform identically, within the original margin of expected S/RV operability. In addition, each S/RVs solenoid block and control functions will continue to be tested and cycled each refueling outage. The removal of the valve stroke surveillance for all S/RVs does not increase the possibility of valve malfunction, since valve stroke is verified during the as-found testing of the sample population of S/RVs. This proposed surveillance test reduces the number of S/RV actuations, and therefore, reduces challenges to the system both mechanically and thermally. Also, the proposed alternative method of testing reduces the possibility of a stuck-open S/RV, since this proposed method will not stroke the S/RVs with the reactor pressurized during reactor power operations.

Therefore, this change would not involve a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

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 Chief, 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 October 11, 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 Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi (39120). 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 William D. Beckner: 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 Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, 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 9, 1996, as supplemented by letter dated August 27, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120.

Dated at Rockville, Maryland, this 4th day of September, 1996.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–23192 Filed 9–10–96; 8:45 am]

BILLING CODE 7590–01–P

National State Liaison Officers' Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will sponsor a national meeting on October 8 and 9, 1996 with the State Liaison Officers to discuss items of mutual regulatory interest. The State Liaison Officers are appointed by the Governors of the fifty States and the Commonwealth of Puerto Rico to provide a communication channel between the States and the NRC.

DATES: The public meeting will be held on Tuesday, October 8, 1996 from 8:00 a.m. to 5:00 p.m.; Wednesday, October 9, 1996 from 8:30 a.m. to 12:00 noon.

ADDRESSES: The meeting is to be held at the NRC's Two White Flint Building Auditorium, 11554 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Spiros C. Droggitis, Office of State Programs, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 415–2367, FAX (301) 415–3502 & Internet (SCD@NRC.GOV).

SUPPLEMENTAL INFORMATION: Potential topics of discussion will include: status of NRC's Strategic Assessment and Rebaseling effort; current nuclear power plant issues; electric utility industry restructuring and economic deregulation; regulatory reform of radiation in medicine; external regulation of the U.S. Department of Energy; high-level radioactive waste, spent fuel storage and transportation issues; NRC's enforcement policy; and emergency planning and response issues.

The meeting will be conducted in a manner that will expedite the orderly conduct of business. The following procedures apply to public attendance at the meeting:

1. Questions or statements from attendees other than participants, i.e., other participating representatives of States and participating NRC staff will be entertained as time permits; and

2. Seating for the public will be on a first-come, first-served basis.

Dated at Rockville, Maryland this 5th day of September, 1996.

For the Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Office of State Programs.

[FR Doc. 96–23191 Filed 9–10–96; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and

make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 19, 1996, through August 29, 1996. The last biweekly notice was published on August 28, 1996 (61 FR 44353).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish 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 Chief, 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 a hearing and petitions for leave to intervene is discussed below.

By October 11, 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 for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 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 (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: August 1, 1996

Description of amendments request: The amendment will allow use of blind flanges during MODES 1-4 in the Calvert Cliffs Units 1 and 2 Containment Purge Systems. These flanges will establish integrity in Mode 5, prior to entering Mode 4, and maintain it in Modes 1-4, functions presently served by the valve.

Basis for proposed no significant hazards consideration determination: 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. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the Containment Purge System is to provide ventilation for the containment while in a shutdown condition. Valves, which are disabled in the shut position in Modes 1-4, may be opened in Modes 5 and 6 to allow air flow, are provided in the supply and exhaust piping, and are automatically shut on a Containment Radiation Signal to prevent release of radioactive material in the event of a fuel handling incident. Manual operation is also provided. In Modes 1-4, the valves are kept shut to provide containment integrity to withstand a presumed increase in containment pressure in the event of a loss-of-coolant accident. The proposed change will allow blind flanges to serve in place of the purge valves in Modes 1-4 by blocking off the purge penetration on both the supply and exhaust sides. The blind flanges will provide the same level of containment integrity previously provided by the purge valves. The revised Technical Specifications will continue to verify containment building leakage is maintained within the allowable limits by requiring the performance of a 10 CFR Part 50, Appendix J, Type B, leakage test on the blind flanges. The outside valve in each containment purge penetration will be removed and the inside valves will be left in place. The remaining inside valves will no longer by required to provide containment integrity in Modes 1-4. Only one of each pair of valves was credited for containment closure (Modes 5 and 6); therefore, removing the outside valves and the associated automatic closure signals is not a modification of the required capability to close the penetration. The inside valves will maintain their current safety function to close containment (if needed) by closing either on a Containment Radiation Signal (Mode 6) or manually (Modes 5 and 6). The Technical Specification surveillances associated with the purge valves will be changed to reflect the proposed modification to the plant. Since the blind flanges will limit radiological releases in Modes 1-4, and the purge valves will limit radiological releases in Modes 5 and 6, the proposed change will not increase the consequences of an accident previously evaluated.

The Containment Purge System is not an accident initiator but acts to limit the consequences of accidents. The system will provide containment isolation in Modes 1-4 as before, and the inside valves will still be available to close in Modes 5 and 6. Therefore, the proposed change does not increase the probability of an accident previously evaluated.

As stated above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

This requested change does not involve a significant alteration of the operation of the plant, and no new accident initiation mechanism is created by the modification. Four purge valves per unit currently provide containment closure in Modes 5 and 6. The outside valve in the supply and the exhaust lines will be removed to allow for installation of a blind flange in each line. The remaining supply and exhaust valves inside containment will continue to provide containment closure. The function currently performed by the four purge valves in Modes 1, 2, 3 and 4 will be performed by the blind flanges. Other, similar, blind flanges have been in service in the plant for a number of years, and have proven reliable. The Technical Specification surveillances associated with the testing of the purge valves and flanges will be changed to reflect the proposed modification to the plant. Therefore, this change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in the margin of safety.

The valves in the Containment Purge System currently provide containment integrity during Modes 1, 2, 3 and 4, and containment closure during Modes 5 and 6. The function currently performed by the purge valves in Modes 1, 2, 3 and 4 will be performed by the blind flanges. Because of their design and mounting method, the blind flanges will perform the containment integrity function as well as, or better than, the purge valves. In Modes 1-4, the double o-rings in the blind flanges will provide single-failure protection similar to the other existing Type B penetrations. The established allowable containment building leakage rate will be maintained by the implementation of a requirement to perform 10 CFR Part 50, Appendix J, Type B, leakage rate on the installed blind flanges. The outside valve in each purge containment penetration will be removed. Single failure is not assumed in the fuel handling accident analysis, therefore, removing the outside valves and their Containment Radiation Signal channels is not a modification of the required capability to close the penetration. The remaining inside valves will continue to provide automatic and manual containment closure in Mode 6 to mitigate the effects of a fuel handling accident. The Technical Specification surveillances associated with purge valve testing will be changed to reflect the proposed modification to the plant. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request

involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Jocelyn A. Mitchell, Acting Director

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: August 7, 1996

Brief description of amendment: The amendment proposes revising the Technical Specifications (TSs) to allow the use of 10 CFR Part 50, Appendix J, Option B, Performance-Based Containment Leakage Rate Testing. This performance-based Option B may be used as an alternative to the requirements in Appendix J, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors,'' of 10 CFR Part 50. To implement Option B to Appendix J, the amendment proposes modifying TSs to eliminate reference to the prescriptive Appendix J requirements and instead reference NRC Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program.'' The amendment also proposes an editorial correction to the mathematical formula minimum testing frequency in the basis for TS 4.1.

Basis for proposed no significant hazards consideration determination: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.

For Indian Point Unit No. 2, the integrated leak rate testing [ILRT] as-found measured leakage rate acceptance criteria is changed from 0.75 La to 1.0 La. This change is consistent with the revised 10 CFR 50 Appendix J, NEI 94-01, ''Industry Guidelines for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J.'' In addition, an as-found leakage rate acceptance criteria of 1.0 LA for Type A tests is consistent with the design basis and accident analysis assumptions. The as-left acceptance criteria remains unchanged at 0.75 La in accordance with the NEI guidance. Therefore, prior to entering an operating mode where containment integrity is required the as-left leakage rate will not exceed 0.75 La. The combined leakage rate for containment isolation valves listed in Technical Specification Table 4.4-1 subject to gas or nitrogen pressurization testing, air lock testing, and portions of the sensitive leakage rate test which pertain to containment penetrations and double-gasketed seals shall be less than 0.6 La. The extensive operations and testing experience derived from industry show that risk to the general population is generally insensitive to changes in the allowable leakage rate. It has been determined that the allowable containment leakage can be increased by one to two orders of magnitude without significantly impacting the estimates of population dose in the event of an accident. Furthermore, the Indian Point Unit No. 2 ILRT test history provides substantial justification for the proposed changes.

Test results demonstrate that IP2 [Indian Point 2] has a low leakage containment and that the proposed changes would not jeopardize the ability of the containment to maintain the leakage rate at or below the required limits. The proposed change to Technical Specification 4.1 Basis represent a minor editorial correction to the mathematical formula for minimum testing frequency which does not change the formula. Therefore, the probability and the consequence of a design basis accident are not being increased by the proposed changes.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Plant systems and components will not be operated in a different manner as a result of the proposed Technical Specification change. The proposed change permits a performance-based approach to determining the leakage-rate test frequency for the containment and containment penetrations (Type A, B, and C tests). There are no plant modifications, or changes in methods of operation. Therefore, the changes in testing intervals for the containment and containment penetrations have no affect on the probability of occurrence of a LOCA [loss-of-coolant-accident]. The Limiting Conditions for Operation are not being changed. Changing the as-found leakage-rate acceptance criterion to 1.0 La does not increase the probability or consequences of an accident. Changing the test interval for the containment and containment penetrations does not create any new accident precursors or methods of operation. The proposed change to Technical Specification 4.1 Basis represent a minor editorial correction to the mathematical formula for minimum testing frequency which does not change the formula. Therefore, the possibility for an accident of a different type than was previously evaluated in the safety analysis report is not created by the proposed Technical Specification.

3. The proposed change does not involve a significant reduction in a margin of safety.

While the proposed changes do increase the probability for malfunction of equipment important to safety due to the longer intervals between leakage tests, it has been estimated that the longer test intervals will have an insignificant increase in the overall accident risk to the public. This increase has been reviewed and found to be acceptable by the NRC as documented in NUREG-1493 and the recent rulemaking to 10 CFR 50 Appendix J. We also agree that this increase in accident risk is insignificant. Changing the as-found acceptance criterion to 1.0 La does not increase the consequences of an accident, since the accident analysis assume a leakage rate of La for design basis accidents. The as-left Type A test acceptance criterion remains at less than 0.75 La. Given that the Indian Point Unit No. 2 ILRT test history show no failures during plant life, the proposed changes should not lead to a significant probability of creating new leakage paths or increased leakage rates. The proposed change to Technical Specification 4.1 Basis represent a minor editorial correction to the mathematical formula for minimum testing frequency which does not change the formula. Therefore, the accident analysis assumptions for design basis accidents are unaffected and the margin of safety is not decreased by the proposed Technical Specification change.

Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: January 18, 1996

Description of amendment request: The proposed amendment would delete the requirement to perform inservice inspections of the primary coolant pump (PCP) flywheels.

Basis for proposed no significant hazards consideration determination: 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 following evaluation supports the finding that operation of the facility in accordance with the proposed change to the Technical Specifications would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Technical Specifications would delete the requirement to perform non-destructive examination of the upper flywheel on the PCPs. The fracture mechanics analyses conducted to support the change show that a preexisting crack sized just below detection level will not grow to the flaw size necessary to result in flywheel failure within the life of the plant. This analysis conservatively assumes minimum material properties, maximum flywheel accident speed, location of the flaw in the highest stress area and a number of startup/shutdown cycles eight times greater than expected. Since an existing flaw in the flywheel will not grow to the allowable flaw size under normal operating conditions or to the critical flaw size under LOCA [loss-of-coolant accident] conditions over the life of the plant, elimination of inservice inspection for such cracks during the plant's life will not involve a significant increase in the

probability of an accident previously considered.

The proposed changes do not increase the amount of radioactive material available for release or modify any systems used for mitigation of such releases during accident conditions. Therefore, operation of the facility in accordance with the proposed change to the Technical Specifications would 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 previously evaluated.

The proposed change to the Technical Specifications would not change the design, configuration, or method of operation of the plant and therefore, operation of the facility in accordance with the proposed change to the Technical Specifications would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change to the Technical Specifications would not result in a significant reduction in the margin of safety. Significant conservatisms have been used for calculating the allowable flaw size, critical flaw size and crack growth rate in the PCP flywheels. These include minimum material properties, maximum flywheel accident speed, location of the postulated flaw in highest stress area and a number of startup/shutdown cycles eight times greater than expected. Since an existing flaw in the flywheel will not grow to the maximum allowable flaw size under normal operating conditions or to the critical flaw size under LOCA conditions over the life of the plant, elimination of inservice inspections for such cracks during the plant's life will not involve a significant reduction in the 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.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

NRC Project Director: John Hannon

Duke Power Company, Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: August 8, 1996

Description of amendment request: The proposed amendments would change the Technical Specifications (TS) of each unit to reference updated or recently approved methodologies used to calculate cycle-specific limits contained in the Core Operating Limits Report (COLR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature, and do not affect any system, procedure, or manipulation of any equipment which could affect the probability or consequences of any accident.

(2) The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature, and cannot introduce any new failure mode or transient which could create any accident.

(3) The proposed changes will not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature, and will not affect any operating parameters or limits which could result in a 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 proposed amendments involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Herbert N. Berkow

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: June 21, 1996

Description of amendment request: The proposed amendments would revise the term ''lifting loads'' used in Technical Specification 3.9.6b.2, Manipulator Crane, to ''lifting force.'' This revision will clarify that the static loads associated with the lifting tool, drive rod and control rod weights are not included in the lifting force limit.

Basis for proposed no significant hazards consideration determination: 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:

Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change is administrative in nature and does not represent any changes to the refueling process in the field. It more accurately describes the components for which the LCO's [Limiting Condition for Operation] protection is intended as well as giving a more accurate description of the auxiliary hoist's minimum capacity. It also broadens the domain of activities for which protective measures are taken by including drag load testing into monitored activities. At CNS [Catawba Nuclear Station], the auxiliary hoists and the manipulator cranes are rated at [greater than or equal to] 3000 pounds and are surveillance tested to greater than 1000 pounds. This brackets the limit force lifting value change from 600 to 1000 pounds in the amendment proposal.

Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. This proposed administrative change reflects no changes in the refueling processes, or any systems, structures or components connected with the refueling process.

Will the change involve a significant reduction in a margin of safety?

No. The proposed administrative change has no impact on refueling processes, systems, structures or components, and does not result in any significant reduction in a margin of safety. The subject change only clarifies the original intent of the specification and more accurately describes the involved components, component capacities and the domain of activities for which measures are taken to protect the reactor internals.

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.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: August 23, 1996 (TSCR 245)

Description of amendment request: The amendment request proposes new pressure-temperature (P-T) limits up to

22, 27, and 32 effective full power years (EFPY). The new sets of P-T curves would be used beyond 17 EFPY in the future as the corresponding EFPY of operation is completed.

Basis for proposed no significant hazards consideration determination: 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:

We have determined that this change request with respect to P-T limits involves no significant hazards considerations in that operation of the Oyster Creek Plant in accordance with the proposed amendment, will not:

1. Involve a significant increase in the probability of an accident because the new limits account for the increase in RT_{NDT}, including statistical uncertainty, due to neutron irradiation of the reactor vessel as well as establishing initial RT_{NDT} on the basis of current Code requirements, also including statistical uncertainty, in accordance with Reg. Guide 1.99, Rev. 2. The new P-T curves will assure that brittle fracture of the reactor vessel is prevented.

2. Create the probability of a new or different kind of accident from any accident previously evaluated. These new limits are the result of the calculation methodology in Reg. Guide 1.99, Rev. 2 [Radiation Embrittlement of Reactor Vessel Materials], as required by Generic Letter 88-11 [NRC Position on Radiation Embrittlement of Reactor Materials and its Impact on Plant Operations]. Primary system configuration and function remain unchanged.

3. Involve a significant reduction in margin of safety because the bases for the margin of safety remain the same as current limits, i.e., ASME [American Society of Mechanical Engineers], Sect. XI, App. G for available fracture toughness and applied stress intensity, Reg. Guide 1.99, Rev. 2 for calculating applied stress intensity, Reg. Guide 1.99, Rev. 2 for calculating adjusted RT_{NDT} and 10 CFR 50, App. G, for criticality conditions.

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.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: August 15, 1996

Description of amendment request: The proposed amendment would modify the Clinton Power Station Technical Specifications to incorporate the revised Safety Limit Minimum Critical Power Ratio (SLMCPR) as calculated by General Electric (GE) for Cycle 7 operation. The need to change the SLMCPR resulted from the 10 CFR Part 21 condition reported by GE in their letter to the NRC dated May 24, 1996.

Basis for proposed no significant hazards consideration determination: 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) This change does not involve a significant increase in the probability or consequences of any accident previously evaluated. In lieu of utilizing a potentially nonconservative generic value, this change revises the SLMCPR to be appropriately conservative as it has been specifically calculated on a plant- and cycle-specific basis. Although the SLMCPR does not apply (i.e., is not assumed or required to be met) during any analyzed accident, the MCPR fuel cladding Safety Limit ensures that during normal operation and during anticipated operational occurrences (AOOs), at least 99.9% of the fuel rods in the core do not experience transition boiling. The revised value for the SLMCPR is determined using the same methodology as the previous SLMCPR with the exception that it utilizes plant specific conditions to determine the safety limit. The revised SLMCPR, therefore, accounts for actual expected power distributions in the Clinton Power Station (CPS) core as well as CPS-specific uncertainties. This provides a more conservative SLMCPR than the generic value used previously.

The proposed change does not affect any of the parameters or conditions that contribute to initiation of any accidents previously evaluated. In addition, the proposed change does not affect the ability of any plant systems or equipment to operate as assumed in the safety analyses. The revised SLMCPR will continue to ensure that the fuel cladding integrity is not lost as a result of over-heating during normal plant operation or any AOO. As a result, the proposed change will not result in a significant increase in the consequences of any accident previously evaluated.

(2) The proposed change does not involve any new modes or operation, any changes to setpoints, or any plant modifications. Further, the incorporation of a revised MCPR safety limit, which has been determined to be acceptable for CPS Cycle 7 operation, does not result in the creation of any new failure modes or potential precursors to an accident. Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

(3) The proposed SLMCPR has been evaluated to ensure that during normal operation and during AOOs, at least 99.9% of the fuel rods in the core do not experience transition boiling. As noted above, the revised SLMCPR has been determined using the same methodology as used previously with the exception of using CPS Cycle 7 specific core and fuel design data. This change ensures that the margin of safety for fuel cladding integrity is maintained by providing a CPS specific MCPR safety limit as opposed to utilizing a potentially less conservative generic limit. Therefore, the implementation of the proposed change to the SLMCPR does not involve a significant reduction in the 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.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Leah Manning Stetzner, Vice President, General Counsel, and Corporate Secretary, 500 South 27th Street, Decatur, Illinois 62525

NRC Project Director: Gail H. Marcus

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: May 8, 1996

Description of amendment requests: The licensee proposes to revise improved Technical Specifications (TS) 3.9.4 and 3.9.5 to facilitate testing of low pressure safety injection system components and permit additional flexibility in scheduling maintenance on the shutdown cooling system.

Basis for proposed no significant hazards consideration determination: 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 will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Limiting Conditions for Operation (LCO) in Technical Specifications (TSs) 3.9.4 and 3.9.5 define the operability requirements for the Shutdown Cooling (SDC) system during refueling operations (Mode 6) while the water level above the top of the reactor vessel

flange is at least 23 feet and less than 23 feet, respectively. The objective of these TSs is to ensure that 1) sufficient cooling is available to remove decay heat, 2) the water in the reactor vessel is maintained below 140°F, and 3) sufficient coolant circulation is maintained in the reactor core to minimize boron stratification leading to a boron dilution incident.

The proposed TS changes affect the current limits imposed while ensuring adherence to the bases of the TS. No plant modifications are being made. The reactor cavity water level limitations and SDC system required operating times are being changed based on plant specific calculations and the objectives of the TSs are being maintained.

1) Reduce the water level where two loops of SDC are required from 23 feet to 20 feet above the reactor vessel flange,

Prior to the approval of Unit 2 Amendment No. 127 and Unit 3 Amendment No. 116, Technical Specification Bases Section 3/4.9.8 has stated that ''With the reactor vessel head removed and 23 feet of water above the reactor vessel flange, a large heat sink is available for core cooling, thus in the event of a failure of the operating shutdown cooling loop, adequate time is provided to initiate emergency procedures to cool the core.''

In the Bases for the New Standard Technical Specifications, ''NUREG 1432, Revision 0, dated September 30, 1992, Section B 3.9.4 it is stated that; ''The 23 ft level was selected because it corresponds to the 23 ft requirement established for fuel movement in LCO 3.9.6, ''Refueling Water Level.''

Southern California Edison (Edison) calculations show that there is an insignificant difference in the time to boil due to the 3-foot change in required water level. Therefore, adequate water is still available to mitigate the consequences of losing SDC.

2) Increase the time a required loop of the SDC system may be removed from service from up to 1 hour per 8-hour period to up to 2 hours per 8-hour period, provided the upper guide structure has been removed from the reactor vessel,

The proposed TS changes the time the SDC loop may be removed from operation from up to 1 hour per 8-hour period to up to 2 hours per 8-hour period, and allows removal of the SDC loop from operation for testing of the Low Pressure Safety Injection (LPSI) system components as well as for core alterations in the vicinity of the hot legs. The proposed TS change also imposes certain restrictions to ensure operating the SDC system in accordance with this proposed TS change is of no safety significance. These [r]estrictions are discussed separately below.

Specifically stating that the upper guide structure will be removed assures that natural heat transfer is not impeded.

When securing the only operating loop of the SDC system the maximum Reactor Coolant System (RCS) temperature is maintained [less than or equal to] 140°F. The initial conditions and heatup rate are selected such that the RCS temperature remains [less than or equal to] 140°F during the test. Therefore, there is ample margin to boiling. Typical initial temperatures are less than 100°F.

The water being injected by the LPSI system test is cool water from the Refueling Water Storage Tank (RWST) and will increase the reactor cavity water level by several inches, providing more cool water to the heat sink. The two hours is sufficient time to align the system to test, perform the test, and restore the loop of SDC to operation prior to exceeding 140°F.

No operations are permitted that would cause a reduction of the RCS boron concentration. This minimizes the probability of an inadvertent boron dilution event. The use of adequately borated water for injection into the RCS during the test provides assurance that the test itself cannot lead to a boron dilution event. When the SDC system is operating, the minimum SDC flow rate of 2200 gpm imposed by Surveillance Requirements SR 3.9.4.1 and SR 3.9.5.1 is sufficient to ensure complete mixing of the boron within the RCS.

Securing SDC flow is only allowed when the reactor cavity water level is maintained greater than or equal to 20 feet above the reactor vessel flange. This level ensures an adequate heat sink to perform the LPSI pump suction header check valve test.

3) Allow for running 1 loop of shutdown cooling with additional requirements when the water level is less than 20 feet but greater than or equal to 12 feet above the reactor vessel flange,

4) Add an action to be taken when operating 1 loop of SDC with less than 20 feet of water above the reactor vessel flange when the specified requirements are not met,

In the event of a loss of SDC the time to boil is reduced from approximately 4.0 hours when the water level is 23 feet above the reactor vessel flange to approximately 2.3 hours at 12 feet, assuming the reactor has only been shutdown for 6 days. However, this is ample time to close containment (less than 1 hour) and to restore SDC or initiate alternative cooling (e.g., add water to the cavity (approximately 1 hour)). The reactor pressure vessel flange is approximately 11' above the top of the fuel. Therefore, the water level will be a minimum of 23' above the fuel, which still maintains a large volume of water to provide a heat sink.

Requiring the reactor to be shutdown for at least 6 days to have only one loop of SDC operable when the reactor cavity level is between 20 feet and 12 feet above the reactor vessel flange ensures that the time to boil is greater than twice the time it would take to establish containment closure and to commence reactor cavity fill with the required standby equipment.

One loop of SDC operating with a containment spray pump allows for the high capacity LPSI pump to be the main standby pump capable of filling the reactor cavity to at least 20 feet above the reactor pressure vessel flange in the event SDC is lost. The high pressure safety injection pump will also be maintained OPERABLE to increase the water level if needed. In support of this contingency the RWST will be required to contain the volume of water needed to raised [raise] the level to 20 feet above the reactor pressure vessel flange. As discussed above, the reactor cavity can be filled at a rate of approximately 4.0 inches per minute with the LPSI pump.

If operating one loop of the SDC system with less than 20 feet of water above the reactor vessel flange and any of the required conditions are not met, requiring immediate action to establish greater than or equal to 20 feet of water above the reactor vessel flange ensures no time is wasted trying to restore the required condition not met. By taking action to restore the level to 20 feet above the reactor vessel flange the plant will be placed in TS 3.9.4, which only requires one loop of SDC to be operable. Additionally, the core will not heat up while the water level in the reactor cavity is being raised with cool water from the RWST. This will provide additional time to either restore the one loop of SDC or take other actions to provide core cooling as required by TS 3.9.4.

A Probabilistic Risk Assessment (PRA), with a) one loop of the SDC system operable with the reactor cavity water level greater than or equal to 12 feet above the reactor vessel flange, and b) one loop of the SDC system operable with the reactor cavity water level greater than or equal to 20 feet above the reactor vessel flange, showed that the operations in accordance with the proposed TS would not significantly increase the probabilities of inventory boiling and core damage.

5) Item 6 adds wording to the notes in LCOs 3.9.4 and 3.9.5 that was unintentionally deleted by the Unit 2 Amendment No. 127 and Unit 3 Amendment No. 116.

This is an editorial change.

Therefore, proposed changes 1 through 5 do not involve a significant increase in the probability or consequences of an accident.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

1) Reduce the water level where two loops of SDC are required from 23 feet to 20 feet above the reactor vessel flange,

2) Increase the time a required loop of the SDC system may be removed from service from up to 1 hour per 8-hour period to up to 2 hours per 8-hour period, provided the upper guide structure has been removed from the reactor vessel,

3) Allow for running 1 loop of shutdown cooling with additional requirements when the water level is less than 20 feet but greater than or equal to 12 feet above the reactor vessel flange,

4) Add an action to be taken when operating 1 loop of SDC with less than 20 feet of water above the reactor vessel flange when the specified requirements are not met,

The Limiting Conditions for Operation (LCO) in Technical Specifications (TSs) 3.9.4 and 3.9.5 define the operability requirements for the SDC system during refueling operations (Mode 6) while the water level above the top of the reactor vessel flange is at least 23 feet and less than 23 feet, respectively. The objective of the proposed TS changes is to ensure that the intent of the Bases is maintained. [i.e., 1) sufficient cooling is available to remove decay heat, 2) water in the reactor vessel is maintained below 140°F, and 3) sufficient coolant

circulation is maintained in the reactor core to minimize boron stratification leading to a boron dilution incident.]

The proposed TS changes affect the current limits imposed while ensuring adherence to the bases of the TS. No plant modifications are being made. The reactor cavity water level limitations and SDC system required operating times are being changed based on plant specific calculations, and the objective of the TSs are being maintained. The added requirements and action statement facilitate safe operation.

5) Item 6 adds wording to the notes in LCOs 3.9.4 and 3.9.5 that was unintentionally deleted by the Unit 2 Amendment No. 127 and Unit 3 Amendment No. 116.

This is an editorial change.

Therefore, the operation of the facility in accordance with proposed changes 1 through 5 does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change will not involve a significant reduction in a margin of safety.

Limiting Conditions for Operation (LCO) in TSs 3.9.4 and 3.9.5 define the operability requirements for the SDC system during refueling operations (Mode 6) while the water level above the top of the reactor vessel flange is at least 23 feet and less than 23 feet, respectively. The objectives of these TSs are to ensure that 1) sufficient cooling is available to remove decay heat, 2) the water in the reactor vessel is maintained below 140°F, and 3) sufficient coolant circulation is maintained in the reactor core to minimize boron stratification leading to a boron dilution incident.

1) Reduce the water level where two loops of SDC are required from 23 feet to 20 feet above the reactor vessel flange,

Prior to the approval of Unit 2 Amendment No. 127 and Unit 3 Amendment No. 116, Technical Specification Bases Section 3/4.9.8 has stated that ''With the reactor vessel head removed and 23 feet of water above the reactor vessel flange, a large heat sink is available for core cooling, thus in the event of a failure of the operating shutdown cooling loop, adequate time is provided to initiate emergency procedures to cool the core.''

In the Bases for the New Standard Technical Specifications, NUREG 1432, Revision 0, dated September 30, 1992, Section B 3.9.4 it is stated that ''The 23 ft level was selected because it corresponds to the 23 ft requirement established for fuel movement in LCO 3.9.6, ''Refueling Water Level.''

Edison calculations show that there is a minimal difference in the time to boil due to the 3-foot change in required water level. Therefore, the margin of safety has not been significantly reduced.

2) Increase the time a required loop of the SDC system may be removed from service from up to 1 hour per 8-hour period to up to 2 hours per 8-hour period, provided the upper guide structure has been removed from the reactor vessel,

The proposed TS changes the time the SDC loop may be removed from operation from up to 1 hour per 8-hour period to up to 2 hours per 8-hour period, and allows removal of the SDC loop from operation for testing of the LPSI system components as well as for core alterations in the vicinity of the hot legs. The proposed TS change also imposes certain restrictions to ensure operating the SDC system in accordance with this proposed TS change is of no safety significance. These restrictions are discussed separately below.

Specifically stating that the upper guide structure will be removed assures that natural heat transfer is not impeded.

When securing the only operating loop of the SDC system, the maximum RCS temperature is maintained [less than or equal to] 140°F. The initial conditions and heatup rate are selected such that RCS temperature remains [less than or equal to] 140°F during the test. Therefore, there is ample margin to boiling. Typical initial temperatures are less than 100°F.

The water being injected by the LPSI system test is cool borated water from the RWST and will increase the level of the reactor cavity by several inches. The two hours is sufficient time to align the system to test, perform the test, and restore the loop of SDC to operation prior to exceeding 140°F.

No operations are permitted that would cause a reduction of the RCS boron concentration. This minimizes the probability of an inadvertent boron dilution event. The use of adequately borated water for injection into the RCS during the test provides assurance that the test itself cannot lead to a boron dilution event. When the SDC system is operating, the minimum SDC flow rate of 2200 gpm is sufficient to ensure complete mixing of the boron within the RCS.

Securing SDC flow is only allowed when the reactor cavity water level is maintained greater than or equal to 20 feet above the reactor vessel flange. This level ensures an adequate heat sink to perform the LPSI pump suction header check valve test.

The added requirements and the nature of the test provide assurances that the water temperature will be maintained less than 140°F and that boron stratification is prevented.

3) Allow for running 1 loop of shutdown cooling with additional requirements when the water level is less than 20 feet but greater than or equal to 12 feet above the reactor vessel flange,

4) Add an action to be taken when operating 1 loop of SDC with less than 20 feet of water above the reactor vessel flange when the specified requirements are not met,

In the event of a loss of SDC, the time to boil is reduced from approximately 4.0 hours when the water level is 23 feet above the reactor vessel flange to approximately 2.3 hours at 12 feet, when the reactor has only been shutdown for 6 days. However, this is ample time to close containment (less than 1 hour), and to restore SDC or initiate alternative cooling (e.g., add water to the cavity (approximately 1 hour)).

Requiring the reactor to be shutdown for at least 6 days to have only one loop of SDC operable when the reactor cavity level is between 20 feet and 12 feet above the reactor vessel flange ensures that the time to boil is greater than twice the time it would take us to establish containment closure and to commence reactor cavity fill with the required standby equipment.

One loop of SDC operating with a containment spray pump allows for the high capacity LPSI pump to be the main standby pump capable of filling the reactor cavity to at least 20 feet above the reactor pressure vessel flange in the event SDC is lost. The high pressure safety injection pump will also be maintained OPERABLE to increase the water level if needed. In support of this contingency the RWST will be required to contain the volume of water needed to raised [raise] the level to 20 feet above the reactor pressure vessel flange. As discussed above, the reactor cavity can be filled at a rate of approximately 4.0 inches per minute with the LPSI pump.

If operating one loop of the SDC system with less than 20 feet of water above the reactor vessel flange and any of the required conditions are not met, requiring immediate action to establish greater than or equal to 20 feet of water above the reactor vessel flange ensures no time is wasted trying to restore the required condition not met. By taking action to restore the level to 20 feet above the reactor vessel flange the plant will be placed in TS 3.9.4, which only requires one loop of SDC to be operable. Additionally, the core will not heat up while the reactor cavity water level is being raised with cool water from the RWST. This will provide additional time to either restore the one loop of SDC or take other actions to provide core cooling as required by TS 3.9.4.

A PRA showed that operations in accordance with the proposed TS did not significantly increase the probabilities of inventory boiling and core damage.

5) Item 6 adds wording to the notes in LCOs 3.9.4 and 3.9.5 that was unintentionally deleted by the Unit 2 Amendment No. 127 and Unit 3 Amendment No. 116.

This is an editorial change.

Therefore, operation of the facility in accordance with proposed changes 1 through 5 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration. Temporary

Local Public Document Room location: Science Library, University of California, Irvine, California 92713

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: May 9, 1996, as supplemented by letter dated June 27, 1996.

Description of amendment requests: The licensee proposes to add a requirement to maintain a Barrier Control Program to Section 5 of the improved Technical Specifications.

Basis for proposed no significant hazards consideration determination: 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.

The proposed change will allow a passive support system, plant barriers, to be taken out of service for a specific allowed outage time. Since the allowed outage times are to limit the average annual cumulative increase in fuel damage risk to less than 1.0E-6, there will not be a significant increase in either the probability or consequences of any accident previously evaluated. Additionally, the proposed change will allow barrier impairments if allowed by a 10 CFR 50.59 evaluation and also if the equipment is declared inoperable or is not needed. Since these two conditions are already a part of the San Onofre Units 2 and 3 Licensing Basis, there will be no change 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.

Barriers have been analyzed for specific hazards. The nature of these hazards will not change due to this amendment, and therefore no new or different kind of accident will be created from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Since allowing barrier impairments in accordance with 10 CFR 50.59 or declaring affected equipment inoperable is part of the SONGS Units 2 and 3 Licensing Basis, there will be no reduction in the margin of safety from these two criteria.

Allowing allowed outage times for barrier impairments does not have a significant effect on a margin of safety because the average annual cumulative increase in fuel damage risk is limited to less than 1.0E-6/yr. This small increase is about 3% of the San Onofre Units 2 and 3 core damage risk as reported in the Individual Plant Examination (IPE).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration. Temporary

Local Public Document Room location: Science Library, University of California, Irvine, California 92713

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: May 29, 1996

Description of amendment requests: The licensee proposes to revise the acceptance criteria for the Agastat time delay relays used in the engineered safety features (ESF) load sequencer in Surveillance Requirement (SR) 3.8.1.18, ''A.C. Sources - Operating'' of Technical Specification (TS) 3.8.1, ''A.C. Sources - Operating.''

Basis for proposed no significant hazards consideration determination: 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 will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change would expand the current surveillance acceptance criteria to more accurately reflect the characteristics of the installed plant equipment. The diesel generators (DG's) have sufficient capacity to maintain adequate voltage and frequency during load sequencing with the expanded tolerance. The overall Engineered Safety Features (ESF) response times in the Technical Specifications and safety analyses are maintained even though the timer tolerance is increased, therefore, the consequences of any accident previously evaluated are not increased. The DG load sequence timers are not of themselves a credible initiator of any accident, so the probability of an accident has not been increased. The timers will function acceptably to support the equipment needed for accident mitigation, so the consequences of an accident are not increased. Therefore, the probability or consequences of any accident previously evaluated is not increased.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This amendment request does not involve any change to plant equipment or operation. In the event of a loss of preferred power, the ESF electrical loads are automatically connected to the DG's in sufficient time to provide for safe reactor shutdown and to mitigate the consequences of a Design Basis Accident (DBA) such as a loss of coolant accident (LOCA). Increasing the timer tolerance will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change will not involve a significant reduction in a margin of safety.

This amendment does not change the manner in which safety limits, limiting safety settings, or limiting conditions for operations are determined. The actual response times have not been altered by this amendment, therefore, operations will not be affected. Accordingly, this amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration. Temporary

Local Public Document Room location: Science Library, University of California, Irvine, California 92713

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: William H. Bateman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: May 30, 1996

Description of amendment requests: The licensee proposes to revise Surveillance Requirements (SR) 3.6.1.1, 3.6.2.1, and 3.6.3.6, of the improved Technical Specifications. The proposed change will allow implementation of the recently approved Option B to 10 CFR Part 50, Appendix J. This new rule allows for a performance-based option for determining the test frequency for containment leakage rate testing.

Basis for proposed no significant hazards consideration determination: 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.

Since the interval between containment leakage rate tests is not related in any way to conditions which cause accidents, and plant structures, systems, and components

will not be operated in a different manner as a result of the proposed Technical Specification (TS) change, the proposed changes will not increase the probability of an accident previously evaluated.

Containment leakage may result from accidents which are evaluated in the Updated Final Safety Analysis Report. The proposed TS changes may result in an acceptably small increase in post-accident containment leakage. Using a statistical approach, NUREG-1493 determined that the increase in hypothetical dose to the public resulting from extending the testing interval is extremely small. NUREG-1493 concluded that such small hypothetical dose increases to the public are justifiable due to the real reduction in occupational exposure resulting from interval extension. Therefore, the proposed change does not significantly increase the 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.

The proposed change only incorporates the performance based approach for containment leak rate testing authorized in the new Option B to Appendix J of 10 CFR Part 50. The interval extensions allowed, through this approach, do not have the potential for creating the possibility of new or different kinds of accidents from those previously evaluated because plant structures, systems, and components will not be operated in a different manner as a result of the TS change and, therefore, will not introduce any new or different failure modes or initiators. Therefore 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 Technical Specification does not alter the allowable containment leakage rate. The proposed change replaces the current, prescriptive testing requirements with a new performance based approach for establishing the testing intervals. Therefore, the proposed change does 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration. Temporary

Local Public Document Room location: Science Library, University of California, Irvine, California 92713

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: William H. Bateman

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: August 23, 1996

Description of amendments request: The proposed amendments would revise the Technical Specifications to allow installation of laser welded elevated tubesheet sleeves in Farley, Units 1 and 2.

Basis for proposed no significant hazards consideration determination: 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. Operation of the Farley Nuclear Plant Units 1 and 2 steam generators in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The installation of elevated tubesheet laser welded sleeves as described below, can be used to repair degraded tubes by returning the condition of the tubes to their original design condition (for tube integrity, stress and fatigue considerations, and leaktightness during all plant conditions). Tube bundle overall structural and leakage integrity will be increased with the installation of the laser welded sleeves. The performance history of Westinghouse sleeves has shown that, to date, no domestic laser welded sleeves have been removed from service due to corrosion degradation of the sleeve or parent tube in the joint area.

Any hypothetical sleeve failure is bounded by the consequences of a postulated steam generator tube rupture event. The use of elevated tubesheet laser welded sleeves will not increase the amount of primary-to-secondary leakage anticipated during a postulated steam linebreak and other analyzed accidents. Leak rate tests show only negligible primary-to-secondary leakage through the non-welded elevated tubesheet sleeve lower joints during normal or accident conditions such that any consequences are insignificant with regard to offsite doses. Sleeve installation will result in an increase in resistance to primary coolant flow through the tube. Depending on the assumed steam generator tube rupture location, the primary coolant flow through the ruptured tube is reduced by the influence of sleeves installed below the break location, thereby reducing the consequences to the public due to a steam generator tube rupture event. Steam generator tube sleeving has as a basis that the analyzed steam generator tube plugging level and associated minimum measured flow rate, is not exceeded. Therefore, primary coolant flow area assumptions in the accident analyses are not affected and any consequences of a postulated loss of coolant accident would not be increased.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Installation of elevated tubesheet laser welded sleeves will increase the leaktightness of the tube bundle in addition to enhancing overall steam generator tube bundle integrity by isolating localized tube wall degradation. Isolation of the tube degradation is provided by attachment between the tube and sleeve at each end of the sleeve. Following the installation of the sleeves, steam generator tube integrity is restored to its original design bases.

Testing has shown that once installed, there is no mechanism for the sleeves to affect any portion of the steam generator other than the tubes in which they are installed. No other system or component connecting with the steam generator is adversely affected by the operation of the steam generator following installation of laser welded tube sleeves.

Structural analyses of the tube, sleeve and sleeve joints show the stress limits defined in the ASME [American Society of Mechanical Engineers] Code are not exceeded during all plant conditions. The effect of any hypothetical failure of the sleeve would be bounded by existing tube rupture analyses. No increase in leakage is anticipated during a postulated steam line break event. Therefore, operation of the steam generators following installation of elevated tubesheet laser welded sleeves in the tubes of the Farley steam generators will not result in an accident previously not analyzed in the FSAR [Final Safety Analysis Report].

Therefore, SNC [Southern Nuclear Operating Company] concludes that the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

The margin of safety with respect to maintenance of the integrity of the tube bundle is provided, in part, by the safety factors included in the ASME Code, and is not reduced. Nondestructive examination of the sleeve and non-sleeved tube length still can be performed; therefore, the recommendations of Regulatory Guide 1.83, Revision 1 can be implemented. The installation process of the elevated tubesheet laser welded sleeves has been shown to provide an essentially leaktight bond between the sleeve and the tube during all plant conditions, and, as such, would not significantly contribute to the radiological consequences of a postulated steam line break event. Any combination of sleeving and plugging utilized at Farley Units 1 and 2 up to the level that analyzed minimum measured reactor coolant flow rate is maintained per Technical Specification requirements, will be bounded by the accident analyses supporting the analyzed flow level.

Therefore, SNC, concludes that the proposed change does not result in a significant reduction in a loss of margin with respect to plant safety as defined in the Final Safety Analysis Report or the bases of the Farley technical specifications.

Based on the preceding analysis, it is concluded that operation of the Farley

Nuclear Plant steam generators in accordance with the proposed amendment does not involve a significant hazards consideration as defined in 10 CFR 50.92.

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.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Herbert N. Berkow

Tennessee Valley Authority, Docket Nos. 50-390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: June 29, 1996 (TS 5.2.2.f)

Description of amendment request: The proposed amendment would revise the Watts Bar (WBN) Unit 1 Technical Specification (TS) requirements to delete the first sentence of TS Section 5.2.2.f which reads, ''The Operations Manager shall hold or have held an SRO [Senior Reactor Operator] license on a similar unit.'' The remaining sentence of this section is being revised to indicate that the Operations Superintendent will hold an SRO license for WBN Unit 1. This change is consistent with the Tennessee Valley Authority's (TVA) commitment to ANSI N18.1-1971 regarding the qualification of this position and is consistent with the Standard TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

Operation of the plant in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

As explained in the June 29, 1996 submittal, the proposed change is considered to be administrative in nature. The proposed change affects an administrative control, which was based on the guidance of ANSI N18.-1971. ANSI N18.1-1971 recommended that the Operations Manager hold an SRO license. The ANSI N18.1-1971 Standard defines the positions of Plant Manager, Operations Manager, Supervisors and Operators. A subsequent update of this standard, ANSI/ANS 3.1-1987, also defines the position of Operations Middle Manager. The correlating named positions in the TVA management structure at WBN are: WBN Operations Manager correlates to ANSI Plant Manager, WBN Operations Superintendent correlates to ANSI Operations Manager or Operations Middle Manager, WBN Shift Operations Supervisor correlates to ANSI Shift Supervisor, and WBN Senior and Licensed Operators correlate to ANSI operators. The guidance in Section 4.2.2 of ANSI/ANS 3.1-1987 recommends that ''If the Operations Manager does not hold an NRC License, then the Operations Middle Manager shall hold an NRC Senior Operator's License. This would be consistent with TVA's proposal that the WBN Operations Superintendent (ANSI Operations Middle Manager) continue to be required to maintain an SRO license.

The proposed change does not alter the design of any system, structure, or component, nor does it change the way plant systems are operated. It does not reduce the knowledge, qualifications, or skills of licensed operators. The control room operators will continue to be supervised by the licensed Shift Supervisors and the first level of off-shift WBN managemet directing the activities of licensed operators will continue to hold an SRO license. In summary, the proposed change does not affect the ability of the Operations Superintendent to provide the plant oversight required of his position. Thus, it does not involve a significant increase in the probability or consequence of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change to TS 5.2.2.f does not affect the design or function of any plant system, structure, or component, nor does it change the way plant systems are operated. It does not affect the performance of NRC licensed operators. Operation of the plant will continue to be supervised by personnnel who hold an NRC SRO license. Based on the above, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The proposed change involves an administrative control. The proposed change does not reduce the level of knowledge or experience required of an individual who fills the Operations Superintendent position. The control room operators will continue to be supervised by personnel who hold an SRO license. Thus, the proposed change does not ivnolve a significant reduction in a margin of safety.

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.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET llH, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: November 17, 1995, as supplemented July 29, 1996

Description of amendment request: The proposed amendment would revise Technical Specification Section 15.6.3, ''Facility Staff Qualifications.'' The title of the responsible health physicist would be changed, and a requirement for this individual to be a supervisor would be added.

Basis for proposed no significant hazards consideration determination: 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. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments does not result in a significant increase in the probability or consequences of an accident previous evaluated.

The proposed changes separate the qualifications requirements of the Technical Specifications from the Health Physics Manager, while requiring that the same qualifications be fulfilled by a designated Health Physicist position within the organization. This change maintains the present knowledge requirements of the PBNP [Point Beach Nuclear Plant] staff. The personnel holding the health physics qualifications are not considered in the probability of any accident. By ensuring the appropriate expertise remains on the staff to advise management on issues related to radiological safety, appropriate action is assured during analyzed events to assess and mitigate the radiological consequences. Therefore, this change does not affect the probability or consequences of any accident previously evaluated.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not result in a new or different kind of accident from any accident previously evaluated.

The proposed change separates the Health Physics Manager qualifications from the position while maintaining the requirements for that expertise to be maintained within the organization. This is an administrative change only and does not affect any plant structures, systems or components. Therefore, a new or different kind of accident from any accident previously evaluated cannot result.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not result in a significant reduction in a margin of safety.

The proposed changes are administrative only. The required levels of expertise and experience will be maintained within the Health Physics organization. Therefore, there is no 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.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Gail H. Marcus

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: January 5, 1996, as supplemented July 12, 1996

Description of amendment request: The proposed amendment would revise the requirements of technical specification 3.1.9.3 to permit a filled refueling cavity to serve as a back-up means of decay heat removal.

Date of individual notice in the Federal Register: August 28, 1996 (61 FR 44348)

Expiration date of individual notice: September 27, 1996

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: March 15, 1995, as supplemented June 29, 1995, May 1, 1996 and May 15, 1996.

Brief description of amendments: The amendments revise the Technical Specification (TS) Section 6.0, ''Administrative Controls'' to be consistent with the guidance provided in the Improved Standard Technical Specifications (STSs) for Combustion Engineering Plants. Additionally, the amendments (a) allow the Shift Technical Advisory to perform dual roles, (b) establishes a TS Bases Control Program, (c) provides for a reduction in the reporting requirements, and (d) provides an option for estimating occupational doses.

Date of issuance: August 26, 1996

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 216 and 193

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 16, 1995 (60 FR 42598) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 26, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County and Northeast Nuclear Energy Company, et al., Docket Nos. 50-245, 50-336, and 50-423, Millstone Nuclear Power Station, Units 1, 2, and 3, New London County, Connecticut

Date of application for amendments: November 22, 1995

Brief description of amendments: The amendments replace the title-specific designation of members representing specific functional areas on the Plant Operating Review Committee (PORC) for the Haddam Neck Plant and Millstone Units 1, 2, and 3 with a functional area-specific designation that stipulates membership qualification and experience requirements. The amendments also clarify the composition of the Site Operations Review Committee (SORC) at Millstone.

Date of issuance: July 16, 1996

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos.: 190, 95, 200, 130

Facility Operating License Nos. DPR-61, DPR-21, DPR-65, AND NPF-49: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7549) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 16, 1996 No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street Middletown, Connecticut 06457, for the Haddam Neck Plant, and the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385, for Millstone 1, 2, and 3.

Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: June 6, 1996; supplemented August 1, 1996

Brief description of amendments: The amendments revise the Technical Specification requirements related to testing of the Low Pressure Service Water pumps and valves, LPSW-4 and LPSW-5, to reflect a design change to remove the Engineered Safeguards signal from the valves.

Date of Issuance: August 19, 1996

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 217, 217, 214

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 17, 1996 (61 FR 37298) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 19, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: May 31, 1996, as supplemented by letter dated May 2, 1996

Brief description of amendment: The amendment revised the schedule for withdrawing capsules with reactor vessel material specimens in accordance with the reactor vessel material surveillance program for the Grand Gulf Nuclear Station, Unit 1 and Section III.B.3 of Appendix H, ''Reactor Vessel Material Surveillance Program Requirements,'' of 10 CFR Part 50.

Date of issuance: August 21, 1996

Effective date: August 21, 1996

Amendment No: 127

Facility Operating License No. NPF-29: Amendment revises the license.

Date of initial notice in Federal Register: June 19, 1996 (61 FR 31179) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 21, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: May 17, 1995, as supplemented July 15, 1996.

Brief description of amendments: These amendments improve consistency between the Technical Specifications (TS) and the improved Combustion Engineering Standard Technical Specifications (STS) and resolve other inconsistencies in the TS.

Date of Issuance: August 14, 1996

Effective Date: August 14, 1996

Amendment Nos.: 146 and 85

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 21, 1995 (60 FR 32363). The July 15, 1996, letter made a minor change to the proposed definition of core alteration which made it more closely match the wording in the STS and did not change the scope of the May 17, 1995, application and initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: August 16, 1996

Brief description of amendments: Relocates selected Technical Specifications (TS) related to instrumentation to the Updated Final Safety Analysis Report, in accordance with the Commissions Final Policy Statement on TS Improvement for Nuclear Power Reactors (58 FR 39132, July 22, 1993). Also relocates review requirements related to the Emergency Plan and the Security Plan from the TS to the respective plans.

Date of Issuance: August 20, 1996

Effective Date: August 20, 1996

Amendment Nos.: 147 and 86

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 27, 1995 (60 FR 49938) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 20, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: June 17, 1996

Brief description of amendments: The amendments revise Technical Specification 5.3.1, Fuel Assemblies, to remove the restriction on the number of fuel rods clad with ZIRLO™ that can be loaded into the core.

Date of issuance: August 19, 1996

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 94, 72

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 17, 1996 (61 FR 37299)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 19, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: June 17, 1996

Brief description of amendments: The amendments revise Technical Specification 3/4.8.1, A.C. Sources, and its associated Bases, by changing Surveillance Requirement 4.8.1.1.2.j(2) to limit the 10-year pressure test of certain portions of the diesel fuel oil system to the isolable portions of the fuel oil piping.

Date of issuance: August 28, 1996

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 95 and 73

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 17, 1996 (61 FR 37300) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 28, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: March 15, 1996, as supplemented July 18, 1996.

Brief description of amendment: The amendment revised TS 4.6.2.1 ''Containment Systems - Depressurization Systems - Suppression Pool'' to extend the time interval for performing the containment drywell-to-suppression chamber bypass leakage tests consistent with schedules for containment integrated leak rate testing under Option B to 10 CFR Part 50, Appendix J.

Date of issuance: August 27, 1996

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 75

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: May 8, 1996 (61 FR 20851) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1996 No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: March 20, 1996

Brief description of amendment: The amendment revises Technical Specification 3/4.3.1 ''Reactor Protection System Instrumentation'' to modify operability requirements for the Average Power Range Monitor for operational conditions 3, 4, and 5.

Date of issuance: August 28, 1996

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 76

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: May 8, 1996 (61 FR 20852) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1996 No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: April 25, 1996

Brief description of amendment: The amendment modifies the calibration requirement for the source range monitors and intermediate range monitors by noting that the sensors are excluded.

Date of issuance: August 19, 1996

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 96

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 19, 1996 (61 FR 31183) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 19, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: November 14, 1994, as supplemented by letters dated December 7, 1995, February 2, 1996, May 28, 1996, and July 30, 1996.

Brief description of amendments: The amendment revised the combined Technical Specifications (TS) for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, for the slave relay test frequency from quarterly (Q) to refueling (R). The request also removed table notation 4 from Table 4.3-2. The associated Bases were revised.

Date of issuance: August 19, 1996

Effective date: August 19, 1996, to be implemented within 30 days of date of issuance.

Amendment Nos.: Unit 1 - 115; Unit 2 - 113

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 6, 1995 (60 FR 62495). The supplemental letters provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 19, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: June 13, 1996, as supplemented by letter dated August 7, 1996.

Brief description of amendment: This amendment will permit a one time performance of TS surveillance requirement 3.3.1.1.12 for the Average Power Range Monitor Flow Biased High Scram function with a delayed entry into associated TS Conditions and Required Actions for up to six hours provided core flow is maintained at or above eighty-two percent. This change is in effect until the end of refueling outage 2R11.

Date of issuance: August 16, 1996

Effective date: Unit 2, as of the date of issuance, to be implemented within 30 days.

Amendment No.: 216

Facility Operating License No. DPR-44: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 3, 1996 (61 FR 34895) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 16, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of applications for amendment: June 15, September 15, October 25, and November 30, 1995.

Brief description of amendment: The amendments change the Technical Specifications regarding the Control Rod System, the Auxiliary Electrical Systems, the Containment Systems and the Standby Liquid Control System to reflect changes to the length of the operating cycle of 24 months.

Date of issuance: August 16, 1996

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 232

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 13, 1995 (60 FR 47623), January 22, 1996 (61 FR 1633, 61 FR 1634, 61 FR 1635) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 16, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 4th day of September 1996.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 96-23032 Filed 9-10-96; 8:45 am]

BILLING CODE 7590-01-F

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is a proposed Revision 2 to Regulatory Guide 1.160, and it is temporarily identified as DG–1051, ''Monitoring the Effectiveness of Maintenance at Nuclear Power Plants.'' The guide will be in Division 1, ''Power Reactors.'' This regulatory guide is being revised to endorse Revision 2 of NUMARC 93–01, ''Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants'' (April 1996), which is an update of a Nuclear Energy Institute document. This regulatory guide will provide current guidance on methods acceptable to the NRC staff for structuring a maintenance program in accordance with the safety significance of the structures, systems, and components covered by the maintenance rule, 10 CFR 50.65.

The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted 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. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by November 15, 1996.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld, consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you

may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov. For more information on this draft regulatory guide, contact T.A. Bergman at the NRC, telephone (301) 415–1021; e-mail TAB@nrc.gov.

Regulatory guides, as well as Revision 2 of NUMARC 93–01 that is endorsed by this guide, are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section; or by fax at (301) 415–2260. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 23rd day of August 1996.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 96–23031 Filed 9–10–96; 8:45 am]

BILLING CODE 7590–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. on Friday, September 20, 1996.

PLACE: The Commission's National Office at One Lafayette Centre, 1120 20th St., N.W.–9th Floor, Washington, DC 20036–3419.

STATUS: This oral argument will be open to the public.

MATTERS TO BE CONSIDERED: The Commission will be hearing oral argument in the case of *Secreatry of Labor* v. *Pepperidge Farm, Inc.*, Docket No. 89–0265.

CONTACT PERSON FOR MORE INFORMATION: Earl R. Ohman, Jr., General Counsel, (202) 606–5410.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 96–23391 Filed 9–9–96; 1:12 pm]

BILLING CODE 7600–01–M

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on September 18, 1996, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion Open to the Public

(1) Charter of the Actuarial Advisory Committee
(2) Draft Consolidated Operations Plan for Fiscal Years 1996–1998 and FTE Allocations at the 1,292 OMB Ceiling Level
(3) Recommendations for the Establishment of Field Office Co-Location Pilots
(4) regulations, Claims Manuals, Rulings, and Procedures
(5) Regulations:
  A. Part 211. Pay for Time Lost
  B. Parts 211. 230 and 255 (Memos to Office of Management and Budget)
(6) Coverage Determinations:
  A. CSX Intermodal
  B. Southern Pacific Transportation Company—Data Processing Services provided by Integrated Systems Solutions Corporation
  C. National Railroad Passenger Corporation (Amtrak)—Data Processing Services provided by Integrated Systems Solutions Corporation
(7) Proposed Occupational Disability Standards (PRODS) Testing Status
(8) MetraHealth FY 1997 Budget Proposal
(9) Labor Member Truth in Budgeting Status Report

Portion Closed to the Public

(A) Request for Change in Position Index (Bureau of Hearings and Appeals)

The person to contact for more information is Beatrice Ezerski. Secretary to the Board, Phone No. 312–751–4920.

Dated: September 6, 1996.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–23335 Filed 9–9–96; 9:35 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 22198; 812–10310]

The ARCH Fund®, Inc., et al.; Notice of Application

September 4, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Arch Fund®, Inc. (the ''Fund''), Mississippi Valley Advisors, Inc. (the ''Adviser''), and Clay Finlay Inc. (''CF'').

RELEVANT ACTION SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: The order would permit the implementation, without shareholder approval, of a new sub-advisory contract for a period of up to 120 days following the date of the change in control of CF, a sub-adviser to the Fund (but in no event later than December 31, 1996). The order also would permit CF to receive from the Fund fees earned under the new sub-advisory contract following approval by the Fund's shareholders.

FILING DATE: The application was filed on August 22, 1996. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 30, 1996 and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service.

Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: the Fund, 3435 Stelzer Road, Columbus, Ohio 43219; the Adviser, One Mercantile Center, Seventh and Washington Streets, St. Louis, Missouri 63101; and CF, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end, management investment company registered under the Act. The Fund consists of 11 series including the International Equity Portfolio (the ''Portfolio''). The Adviser, a registered investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Fund pursuant to an advisory agreement with the Fund. CF, also a registered investment adviser under the Advisers Act, provides sub-advisory services to the Portfolio pursuant to a sub-advisory agreement (the ''Existing Sub-Advisory Agreement'') among the Portfolio, the Adviser, and CF.

2. On July 17, 1996, CF and United Asset Management (''UAM'') entered into an agreement pursuant to which a wholly-owned subsidiary of UAM will be merged with and into CF (the ''Merger''), with CF to be the survivor and wholly-owned subsidiary of UAM. Pursuant to the Merger, shares of CF's common stock will be exchanged for shares of UAM's common stock.

3. The parties to the Merger anticipate that the Merger will be consummated by August 29, 1996 (the ''Effective Date''). Upon consummation of the Merger, 100% of the outstanding voting securities of CF will be owned by UAM and CF will become a wholly-owned subsidiary of UAM. Thus, the Merger will result in a change of control of CF. Accordingly, the change of control will result in the assignment of the Existing Sub-Advisory Agreement and the determination of such agreement according to its terms.

4. Applicants seek an exemption to permit the implementation, without shareholder approval, of a new sub-advisory agreement (the ''New Sub-Advisory Agreement'') to be entered into by the Portfolio, the Adviser, and CF. The requested exemption would cover an interim period of not more than 120 days (the ''Interim Period'') beginning on the Effective Date and continuing through the date the new sub-advisory agreement is approved or disapproved by the Fund's shareholders (but in no event later than December 31, 1996). During the Interim Period, that portion of the advisory fees paid by the Adviser to CF for sub-advisory services would be paid into an escrow account.

5. The New Sub-Advisory Agreement is identical to the Existing Sub-Advisory Agreement, except for the effective date, escrow provisions, and as described below. The New Sub-Advisory Agreement will introduce fee ''break points'' that lower the amount of compensation to CF as the size of the Portfolio grows and will eliminate a provision that provides for fee waivers by CF when the Portfolio was in a start-up mode.

6. In accordance with section 15(c) of the Act,[1] the board of directors (the ''Board'') of the Fund met on August 21, 1996 and determined that the New Sub-Advisory Agreement would be in the best interests of the Fund and its shareholders. At this meeting, the Board, including a majority of the disinterested directors (the ''Independent Directors''), voted to approve the New Sub-Advisory Agreement.

7. Applicants propose to enter into an escrow arrangement that would provide that: (a) the fees payable to CF during the Interim Period under the New Sub-Advisory Agreement would be paid into an interest-bearing escrow account maintained by the escrow agent; (b) the amounts in the escrow account (including interest earned on such paid fees) would be paid to CF only upon approval of the Fund's shareholders of the New Sub-Advisory agreement or, in the absence of such approval, to the Portfolio; and (c) the escrow agent would release the monies to CF only upon approval of the New Sub-Advisory Agreement by the Fund's shareholders in accordance with section 15 of the Act or to the Fund if the Interim Period has ended and the New Sub-Advisory Agreement has not received the requisite shareholder approval. Before any such release is made, the Board would be notified. Any and all fees escrowed during the Interim Period will be less than or equal to the fees under the Existing Sub-Advisory agreement and, in addition, will be in accordance with the fee break points established in the New Sub-Advisory Agreement for the benefit of shareholders (after waiver by the Adviser of its portion of the fee) and will not be subject to the fee waivers of the Existing Sub-Advisory Agreement.

Applicants' Legal Analysis

1. Applicants request an order pursuant to section 6(c), exempting them from section 15(a) of the Act, to the extent necessary (i) to permit the implementation during the Interim Period, without prior shareholder approval, of the New Sub-Advisory Agreement and (ii) to permit CF to receive from the Adviser upon approval by the Portfolio's shareholders any and all fees earned under the New Sub-Advisory Agreement implemented during the Interim Period.

2. Section 15(a) of the Act prohibits an investment adviser from providing investment advisory services to an investment company except under a written contract that has been approved by a majority of the voting securities of the investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. Upon consummation of the Merger, CF will become a wholly-owned subsidiary of UAM. Applicants state that the Merger therefore will result in an ''assignment'' of the Existing Sub-Advisory Agreement within the meaning of section 2(a)(4), terminating such agreement according to its terms.

3. Rule 15a–4 provides, in relevant part, that if an investment adviser's investment advisory contract with an investment company is terminated by assignment, the adviser may continue to act as such for 120 days at the previous

[1] Section 15(c) provides, in relevant part, that it shall be unlawful for any registered investment company to enter into an investment advisory contract unless the terms of such contract have been approved by the vote of a majority of directors, who are not parties to such contract or interested persons of any such party, cast in person at a meeting called for the purpose of voting on such approval.

compensation rate if a new contract is approved by the board of directors of the investment company and if neither the investment adviser nor a controlling person thereof directly or indirectly receives money or other benefit in connection with the assignment. Applicants cannot rely on rule 15a–4 because of the benefits to the CF shareholders arising from the Merger.

4. Applicants state that a proxy solicitation to the shareholders of the Fund is a complicated and time consuming task. The task will include the preparation, clearance, and mailing of proxy materials, and the solicitation efforts required to obtain the requisite votes. Because of the complexity of the proxy solicitation and the imposition of a confidentiality requirement that prevented CF from contacting the Fund and the Adviser in advance of the Merger, applicants state that it was not possible for the Fund to obtain shareholder approval of the New Sub-Advisory Agreement in accordance with section 15(a) of the Act prior to the Effective Date.

5. Applicants submit that the requested relief would permit CF to provide continuity of investment management to the Portfolio during the Interim Period without a disruption of advisory services. In addition, the requested relief would also preserve the profitability of CF during the Interim Period by ensuring that investment advisory fees will continue to accrue to it from the Portfolio, subject to shareholder approval. These fees are an important part of CF's total revenue and are important to maintaining its ability to provide services to the Portfolio.

6. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the pubic interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, applicants believe that the requested relief meets this standard.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by this application that:

1. The New Sub-Advisory Agreement will have the same terms and conditions as the Existing Sub-Advisory Agreement, except for the effective and termination dates, the introduction of fee break points and the elimination of a provision providing for fee waivers by CF when the Portfolio was in a start-up mode.

2. Fees earned by CF and paid by the Adviser during the Interim Period in accordance with the New Sub-Advisory Agreement will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such amounts) will be paid to CF only after the requisite shareholder approval is obtained, or in the event such approval is not obtained, to the Portfolio.

3. The Fund will hold a meeting of its shareholders to vote on the approval of the New Sub-Advisory Agreement on or before the 120th day following the termination of the Existing Sub-Advisory Agreement on the Effective Date (but in no event later than December 31, 1996).

4. CF and/or UAM will pay the costs of preparing and filing this application. CF and/or UAM will pay the costs relating to the solicitation of the Fund shareholder approval, to the extent such costs relate to approval of the New Sub-Advisory Agreement necessitated by the Merger.

5. CF will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Portfolio under the New Sub-Advisory Agreement will be at least equivalent, in the judgment of the Fund's Board, including a majority of the Independent Directors, to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the New Sub-Advisory Agreement caused by the Merger, CF will apprise and consult with the Board of the Fund to assure that the Board, including a majority of the Independent Directors members, is satisfied that the services provided by CF will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–23120 Filed 9–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 22197; 812–10312]

Lincoln National International Fund, Inc., et al.; Notice of Application

September 4, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Lincoln National International Fund, Inc. (the ''Fund''), Lincoln Investment Management, Inc. (the ''Adviser''), and Clay Finlay Inc. (''CF'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: The order would permit the implementation, without shareholder approval, of a new sub-advisory contract for a period of up to 120 days following the date of the change in control of CF, a sub-adviser to the Fund (but in no event later than December 31, 1996). The order also would permit CF to receive from the Fund fees earned under the new sub-advisory contract following approval by the Fund's shareholders.

FILING DATE: The application was filed on August 22, 1996. Applicants have agreed to file and amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 30, 1996 and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: the Fund and the Adviser, 1300 South Clinton Street, Fort Wayne, Indiana 46803; and CF, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulations).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end, management investment company registered under the Act. The Adviser, a registered investment adviser under

the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Fund pursuant to an advisory agreement with the Fund. CF, also a registered investment adviser under the Advisers Act, provides sub-advisory services to the Fund pursuant to a sub-advisory agreement (the ''Existing Sub-Advisory Agreement'') among CF, the Adviser, and the Fund.

2. On July 17, 1996, CF and United Asset Management (''UAM'') entered into an agreement pursuant to which a wholly-owned subsidiary of UAM will be merged with and into CF (the Merger''), with CF to be the survivor and a wholly-owned subsidiary of UAM. Pursuant to the Merger, shares of CF's common stock will be exchanged for shares of UAM's common stock.

3. The parties to the Merger anticipate that the Merger will be consummated by August 29, 1996 (the ''Effective Date''). Upon consummation of the Merger, 100% of the outstanding voting securities of CF will be owned by UAM and CF will become a wholly-owned subsidiary of UAM. Thus, the Merger will result in a change of control of CF. Accordingly, the change of control will result in the assignment of the Existing Sub-Advisory Agreement and the termination of such agreement according to its terms.

4. Applicants seek an exemption to permit the implementation, without shareholder approval, of a new sub-advisory agreement (the ''New Sub-Advisory Agreement'') to be entered into by the Fund, the Adviser, and CF. The requested exemption would cover an interim period of not more than 120 days (the ''Interim Period'') beginning on the Effective Date and continuing through the date the new sub-advisory agreement is approved or disapproved by the Fund's shareholders (but in no event later than December 31, 1996). During the Interim period, that portion of the advisory fees paid by the Adviser to CF for sub-advisory services would be paid into an escrow account.

5. The New Sub-Advisory Agreement is identical to the Existing Sub-Advisory Agreement, except for the effective date and escrow provisions. The fee levels for sub-advisory services will remain the same as in the Existing Sub-Advisory Agreement.

6. In accordance with section 15(c) of the Act,[1] the board of directors (the ''Board'') of the Fund met on August 13, 1996 and determined that the New Sub-Advisory Agreement would be in the best interests of the Fund and its shareholders. At this meeting, the Board, including a majority of the disinterested directors (the ''Independent Directors''), voted to approve the New Sub-Advisory Agreement.

7. Applicants propose to enter into an escrow arrangement that would provide that: (a) the fees payable to CF during the Interim Period under the New Sub-Advisory Agreement would be paid into an interest-bearing escrow account maintained by an escrow agent; (b) the amounts in the escrow account (including interest earned on such paid fees) would be paid to CF only upon approval of the Fund's shareholders of the New Sub-Advisory Agreement or, in the absence of such approval, to the Fund; and (c) the escrow agent would release the monies to CF only upon approval of the New Sub-Advisory Agreement by the Fund's shareholders in accordance with section 15 of the Act or to the Fund if the Interim Period has ended and the New Sub-Advisory Agreement has not received the requisite shareholder approval. Before any such release is made, the Board would be notified.

Applicant's Legal Analysis

1. Applicants request an order pursuant to section 6(c), exempting them from section 15(a) of the Act, to the extent necessary (i) to permit the implementation during the Interim Period, without prior shareholder approval, of the New Sub-Advisory Agreement and (ii) to permit CF to receive from the Adviser upon approval by the Fund's shareholders any and all fees earned under the New Sub-Advisory Agreement implemented during the Interim Period.

2. Section 15(a) of the Act prohibits an investment adviser from providing investment advisory services to an investment company except under a written contract that has been approved by a majority of the securities of the investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. Upon consummation of the Merger, CF will become a wholly-owned subsidiary of UAM. Applicants state that the Merger therefore will result in an ''assignment'' of the Existing Sub-Advisory Agreement within the meaning of section 2(a)(4), terminating such agreement according to its terms.

3. Rule 15a–4 provides, in relevant part, that if an investment adviser's investment advisory contract with an investment company is terminated by assignment, the adviser may continue to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of the investment company and if neither the investment adviser nor a controlling person thereof directly or indirectly receives money or other benefit in connection with the assignment. Applicants cannot rely on rule 15a–4 because of the benefits to the CF shareholders arising from the Merger.

4. Applicants state that a proxy solicitation to the shareholders of the Fund is a complicated and time consuming task. The task will include the preparation, clearance, and mailing of proxy materials, and the solicitation efforts required to obtain the requisite votes. Because of the complexity of the proxy solicitation and the imposition of the confidentiality requirement that prevented CF from contacting the Fund and the Adviser in advance of the Merger, applicants state that it was not possible for the Fund to obtain shareholder approval of the New-Sub Advisory Agreement in accordance with section 15(a) of the Act prior to the Effective Date.

5. Applicants submit that the requested relief would permit CF to provide continuity of investment management to the Portfolio during the Interim Period without a disruption of advisory services. In addition, the requested relief would also preserve the profitability of CF during the Interim Period by ensuring that investment advisory fees will continue to accrue to it from the Portfolio, subject to shareholder approval. These fees are an important part of CF's total revenue and are important to maintaining its ability to provide services to the Portfolios.

6. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of

[1] Section 15(c) provides, in relevant part, that it shall be unlawful for any registered investment company to enter into an investment advisory contract unless the terms of such contract have been approved by the vote of a majority of directors, who are not parties to such contract or interested persons of any such party, cast in person at a meeting called for the purpose of voting on such approval.

the Act. For the reasons stated above, applicants believe that the requested relief meets this standard.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by this application that:

1. The New Sub-Advisory Agreement will have the same terms and conditions as the Existing Sub-Advisory Agreement, except for the effective and termination dates.

2. Fees earned by CF and paid by the Fund during the Interim Period in accordance with the New Sub-Advisory Agreement will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such amounts) will be paid to CF only after the requisite shareholder approval is obtained, or in the event such approval is not obtained, to the Fund.

3. The Fund will hold a meeting of its shareholders to vote on the approval of the New Sub-Advisory Agreement on or before the 120th day following the termination of the Existing Sub-Advisory Agreement on the Effective Date (but in no event later than December 31, 1996).

4. CF and/or UAM will pay the costs of preparing and filing this application. CF and/or UAM will pay the costs relating to the solicitation of the Fund shareholder approval, to the extent such costs relate to approval of the New Sub-Advisory Agreement necessitated by the Merger.

5. CF will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Fund under the New Sub-Advisory Agreement will be at least equivalent, in the judgment of the Fund's Board, including a majority of the Independent Directors, to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the New Sub-Advisory Agreement caused by the Merger, CF will apprise and consult with the Board of the Fund to assure that the Board, including a majority of the Independent Directors members, is satisfied that the services provided by CF will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–23121 Filed 9–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37633; File No. SR–CBOE–96–36]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Deactivation of RAES During Unusual Market Activity

September 4, 1996.

I. Introduction

On June 12, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to allow the interruption of the Exchange's Retail Automatic Execution System (''RAES'') due to unusual market activity. The proposed rule change was published for comment and appeared in the Federal Register on July 3, 1996.[3] No comments were received regarding the proposal. This order approves the Exchange's proposal.

II. Description of the Proposal

The Exchange proposes to add a new paragraph (e) to CBOE Rule 6.6 that will authorize Order Book Officials (''OBOs'') and, in the case of options traded at Designated Primary Market Maker (''DPM'') stations, Post Directors to deactivate RAES for a period not to exceed five minutes in specified classes of options traded at the posts where such persons are stationed when in their judgement such action is warranted by an influx of orders or other unusual market conditions in such options or their underlying securities and the OBO or Post Director determines that such action is appropriate in the interests of maintaining a fair and orderly market. Whenever such action is taken, notice thereof shall immediately be given to two Floor Officials who may continue the deactivation of RAES, provided that the necessary conditions provided for in Rule 6.6 have been met.[4]

The Exchange believes that this proposed rule change should allow a more immediate response to temporary order imbalances related to market disruptions in stocks that underlie options traded on CBOE caused by certain events, such as significant news announcements. The Exchange believes that in these situations stock prices may move sharply, and Exchange market-makers may not have time to adjust their options quotes in the numerous series of options that overlie these stocks. The Exchange notes that this may result in published options quotes that do not reflect current stock prices. Because orders sent to RAES are executed automatically at published quotations, the Exchange believes that customers may receive executions at stale prices, which may be more favorable, or less favorable, than fair market price.

Exchange Rule 6.6 currently authorizes two Floor Officials to respond to this situation by declaring the market in particular classes of options to be ''fast,'' and then turning off RAES (and taking other action) until there has been time for prices to be adjusted. The Exchange believes that because of the speed with which computerized order routing systems can direct orders to RAES, and because RAES itself provides for instantaneous automatic executions, there can be a significant number of executions at prices that do not reflect the current state of the market during the several minutes that it could take for two Floor Officials to declare a fast market. The Exchange believes that by authorizing OBOs and Post Directors to turn off RAES for up to five minutes during unusual market activity, the response time to such a situation will be considerably shortened, and the number of executions at inaccurate prices should be reduced accordingly. Currently, Post Directors or OBOs are authorized to suspend trading in specific classes of options for up to five minutes when there is a trading halt of suspension of trading in the underlying security in the primary market pursuant to CBOE Rule 6.3. The Exchange notes that the OBOs and Post Directors, in those situations, are able to deal quickly and on an interim basis when an immediate response is necessary, pending further consideration of the matter by two Floor Officials.

The Exchange anticipates that in most instances where RAES is deactivated by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 37364 (June 25, 1996), 61 FR 34911.

[4] The Exchange represents that two Floor Officials will promptly exercise their authority under Rule 6.6 once notified of the RAES deactivation by the OBO or Post Director. The proposal also provides that the two Floor Officials will make all further determinations pursuant to Rule 6.6 regarding the particular options class once they arrive at the particular trading post, but until such time the OBO or Post Director can reactivate RAES if they determine such action is in the interest of a fair and orderly market. Telephone conversation between Michael Meyer, Schiff Hardin & Waite, and John Ayanian, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on August 27, 1996.

an OBO or Post Director, the period of time when RAES is unavailable should be very brief, lasting fewer than five minutes. Even then, orders will continue to be delivered to the trading crowd via the Exchange's electronic order routing system (''ORS'') and the trading crowd will remain obligated to fill customer orders in accordance with Exchange rules, including the firm quote rule.[5] Accordingly, orders that would have been routed to RAES will be automatically re-routed to a Public Automated Routing System (''PAR'') workstation,[6] a floor broker printer in the trading crowd, or to the appropriate member firm booth, where they can be immediately executed at the then current price.

Members will be notified of any deactivation of RAES in particular classes of options by an OBO or a Post Director pursuant to proposed Rule 6.6(e) by means of a message that is printed to each trading post on the floor and is transmitted to terminals throughout the floor over the Exchange's TextNet system.

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[7] Specifically, the Commission finds that the Exchange's proposal strikes a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.

The Commission believes that the proposed rule change is reasonable in that it provides Post Directors and OBOs the limited authority to suspend RAES for no more than five minutes in a particular options classes during unusual market conditions. The Commission believes that Post Directors and OBOs are appropriate parties, to exercise this limited authority, in part, because of (1) their knowledge of assigned options classes, (2) their close proximity with the trading crowd, and (3) their clearly defined administrative role with the Exchange. Accordingly, the Commission believes that Post Directors and OBOs should be able to initially assess market conditions and deactivate RAES for this limited period, thereby reducing the potential for orders being executed at inaccurate prices until Floor Officials can further assess the market conditions. The Commission notes that the standard for OBOs and Post Directors to deactivate RAES is the same standard used by Floor Officials to declare a fast market, which in turn, authorizes Floor Officials to deactivate RAES if they determine that such action is in the interest of maintaining a fair and orderly market.

The Commission notes that two Floor Officials, once immediately notified by the OBO or the Post Director of the RAES deactivation, must promptly determine whether to (1) immediately reactivate RAES pursuant to Rule 6.6(c); or (2) declare a fast market pursuant to Rule 6.6(b) in order to continue the deactivation of RAES for that particular options class.[8] Under no circumstances, can the deactivation of RAES continue for more than five minutes, unless two Floor Officials declare a fast market pursuant to Rule 6.6(b).[9]

Additionally, the Commission believes that the proposed rule change is reasonable because during this limited five-minute period when RAES is deactivated by the Post Director or OBO, orders that would have been routed to RAES will be automatically re-routed to a PAR workstation, a floor broker printer in the trading crowd, or to the appropriate member firm booth, where they can be immediately executed at the then current price. Accordingly, the Commission believes that the Exchange's electronic ORS should provide small investors an efficient and effective method for order execution in circumstances where RAES is turned off pursuant to this proposed rule change.

The Commission expects that such authority as proposed herein, will only be exercised when unusual market conditions exist, and for the shortest time possible. As a general matter, the commission prefers that automated systems such as RAES remain operational at all times. While extreme circumstances may call for the deactivation of the system, it should only be done when absolutely necessary.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–CBOE–96–36) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–23123 Filed 9–10–96; 8:45 am]

BILLING CODE 8010–01–M

[5] The firm quote rule, which obligates the trading crowd to fill public orders for up to 10 contracts at published quotes, remains in effect unless suspended by two Floor Officials acting under Rule 6.6(b) in the event of a fast market. The proposed rule change would not authorize an OBO or DPM to declare a fast market or suspend the firm quote rule.

[6] A PAR workstation is an automated, computer-based workstation that provides users with the ability to execute trades, transmit trade reports, and enter other data and commands at the touch of a screen, thereby eliminating the delay inherent in a keyboard-based system.

[7] 15 U.S.C. 78f(b)(5).

[8] The Commission understands that if two Floor Officials declare a fast market, they have the authority to, among other things, continue the deactivation of RAES, suspend the firm quote requirement of Rule 8.51(a), or take such other actions as are deemed necessary in the interest of maintaining a fair and orderly market. *See* CBOE Rule 6.6(b).

[9] The Commission notes that the five-minute period is an absolute time limit imposed by the Exchange on Post Director and OBO directed RAES deactivations. Accordingly, the Commission expects that in most situations, two Floor Officials should be able to exercise their authority under Rule 6.6 before the five-minute period has expired.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[Release No. 34–37640; File No. SR–Phlx–96–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Universal Trading System's Morning Session

September 4, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 29, 1996, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On July 26, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to implement a daily pre-opening order matching session

[1] *See* letter from Gerald D. O'Connell, Senior Vice President, Market Regulation and Trading, Operations, Phlx, to Jennifer Choi, Division of Market Regulation, SEC, dated July 26, 1996. The Exchange clarifies that it does not propose to trade Nasdaq securities through the Universal Trading System (''UTS'') without a computer-to-computer interface to the National Association of Securities Dealers for reporting purposes.

(''Morning Session'' or ''session'') for the execution of large-sized stock orders on a volume weighted average price (''VWAP'') basis on its equity floor. The VWAP shall be derived from transactions executed during the trading day and reported to the appropriate reporting authority. The Morning Session has been designed to provide institutional investors with the means to execute large-sized stock orders in Exchange securities anonymously and at fair market prices approximately 15 minutes prior to the opening of the ''regular trading session'' (*i.e.*, 9:30 A.M.–4:00 P.M. (ET)). The price of Morning Session transactions will be determined at approximately 4:15 P.M. (ET). At that time, the Exchange shall assign the applicable VWAP and report each such trade to the appropriate reporting authority, the Consolidated Tape or other, as VWAP trades.

The receipt and matching of orders for the Morning Session will be handled electronically through the Exchange's Universal Trading System (''UTS'' or ''System''). The UTS is a system that was devised for facilitating the operational aspects of the Morning Session.

Each of the approximately 2,500 equity securities currently available for trading on the Exchange, both listed and traded pursuant to Unlisted Trading Privileges (''UTP'') (including over-the-counter securities) will be eligible for the Morning Session.

The present proposal consists of changes to existing Exchange rules to accommodate the Morning Session and the adoption of a new rule applicable solely to the Morning Session, Rule 237—UTS Morning Session. In addition, Rule 101 is proposed to be amended to add the Morning Session as an exception to regular trading hours.[2]

Proposed Rule 237 is organized as follows: an introductory paragraph, followed by paragraphs: (a) explaining reporting; (b) defining the UTS; (c) governing who the participants are; (d) explaining order entry; (e) specifying order priority; (f) defining the VWAP; (g) governing short sales in the UTS; (h) concerning disputes; (i) containing provisions relating to limitation of liability; and (j) pertaining to trading halts.

UTS trades will be subject to transaction fees as established in the Exchange's fee schedule.

[2] The Exchange also proposes several minor amendments to Rule 101, including placing A.M. and P.M. in capital letters, adding a heading to each commentary, and deleting reference to two specific index options.

The Universal Trading System

The UTS will operate as a separate Exchange system made available to Phlx member organizations and their non-member customers for the purpose of participating in the Morning Session. UTS will link off-floor and on-floor computer terminals to an Exchange communications base unit. UTS access is accomplished through dial-up into the UTS system, utilizing software provided to users and a log-on procedure dependent upon whether the user is accessing UTS through a personal computer or main-frame system.

The UTS base unit will: (i) accept orders and commitments, (ii) match buyers with sellers, (iii) give execution reports to matched participants (iv) calculate the VWAP for each traded security, (v) report trades to the central processor for tape reporting, and (vi) create the necessary audit trail, recording order entry and execution of Morning Session orders.

The UTS was developed by Universal Trading Technologies Corporation (''UTTC''), who will assist the Exchange in its operation of the System in accordance with its agreement with the Exchange.

Participation and Clearing Requirements

Participation in the Morning Session may occur by way of a commitment from a Committer or an order from a User (collectively, ''Participants'').

Phlx Floor Traders and Off-Floor Liquidity Providers (collectively, ''Committers'') will each day commit on a proprietary basis to provide contra-side liquidity in eligible securities for the execution of Morning Session orders placed by non-committer members and their customers (collectively, ''Users''). UTS commitments may only be made by Exchange members. Committers may be either Phlx Floor Traders or Off-Floor Liquidity Providers, who must register with the Exchange in a prescribed manner prior to acting in the capacity of a Committer. Phlx Floor members qualify as Floor Traders if they are either the Specialist or Alternate Specialist in the security on the Phlx. Off-Floor Liquidity Providers must be members and may only engage as Committers for their proprietary accounts. Committers will be able to choose which, if any, issues they wish to make commitments, but for each chosen issue must provide a minimum volume guarantee of 2,500 shares on each side of the market.

Commitments may be entered and modified in the UTS during the Order Entry Time Period and also during any other periods which the Exchange may make available for that purpose. Committers may make such contra-side liquidity commitments through the UTS as day-commitments or good-till-cancelled (''GTC'') commitments.

UTS orders may only be placed by approved Users. Users may be either members or non-members; however, individual orders placed directly by non-members will require a Stock Clearing Corporation of Philadelphia (''SCCP'') member's give-up to ensure that a Phlx clearing member, who must also be a Phlx member, has assumed responsibility for the order. Specifically, the Exchange member must agree to be jointly and severally liable for actions of the non-member through the UTS and the non-member must agree to adhere to all applicable by-laws and rules of the Exchange. Give-up agreements with non-members must be approved in advance by the Exchange, including a delineation of the credit limits for the respective customer.[3] The ''three way agreement'' between the Exchange, the member and the non-Member User is in addition to the give-up agreement.[4]

UTS Order Entry

Users will enter orders directly and anonymously into the UTS from computer terminals, which may include various types of computer hardware and handheld devices. Only those orders and commitments placed through UTS will be eligible for execution during the Morning Session and orders entered into the UTS are only eligible for execution through UTS.[5] UTS orders will only be accepted during the UTS order entry time period, 5:00 a.m. to 9:15:00 a.m. (ET), and will only be eligible for a UTS execution on the day the order has been placed. UTS orders and commitments may be cancelled (order condition CXL) until 9:15 a.m. (ET). Confirmation of order placement and cancellation is electronically confirmed throughout the UTS.

[3] A draft of a sample three way agreement was submitted to the Commission by letter dated February 7, 1996. Since that time, the Exchange has added a provision relating to the Exchange's ability to terminate a User's access to the System. The draft, including this new provision, will be re-submitted to the Commission.

[4] Telephone conversation between Jennifer S. Choi, Division of Market Regulation, SEC, and Edith Hallahan, Special Counsel, Regulatory Services, Phlx, on August 15, 1996.

[5] Commitments also are only eligible for execution through UTS and do not migrate to any other trading session. Telephone conversation between Jennifer S. Choi, Division of Market Regulation, SEC, and Edith Hallahan, Special Counsel, Regulatory Services, Phlx, on May 22, 1996.

Morning Session trading interest may be entered into UTS in the form of either: (i) An order to trade as a User; or (ii) as a commitment to provide contra-side liquidity to User orders. The minimum order size for individual User orders shall be 5,000 shares, while Committers will be permitted to commit in sizes of 2,500 or greater.

In placing orders and commitments on the System, Participants will be required to provide order/commitment description and account identification information necessary for UTS to establish the priority and eligibility of orders on the System. Specifically UTS orders and commitments are to be placed with the following designations:

(i) buy/sell;
(ii) volume;
(iii) stock symbol;
(iv) Participant status: C (Committer) or U (User);
(v) Committer account ''commit'' status: T (Floor Trader) or L (Off-Floor Liquidity Provider); and GTC or Day;
(vi) User account ''order'' status: F (member firm), C (public customer or Registered Investment Adviser); order type (basic, cross, facilitation, etc.);
(vii) Exchange clearing member organization number;
(viii) give-up of Phlx floor broker (required for each User order);
(ix) User identification number; and
(x) restrictions, if any, on matching against member accounts.

Order Types

Eligible order types for the Morning Session include the following: basic, all-or-none, minimum size, facilitation, facilitation-only, facilitation-if-necessary, facilitation-minimum and cross.

In addition to the size-related order types—including basic orders (*i.e.*, fill-order-to-extent-possible), all-or-none orders and minimum size orders—the UTS also permits Users to place orders with ''cross'' and ''facilitation'' instructions. A cross order is a two-sided order, with both sides comprised of non-member interest, placed by one User with instructions to match the identified buy-side with the identified sell-side. Facilitation orders, on the other hand, are two-sided orders where one side is comprised of non-member interest and the other side of member interest, with the instruction to cross the non-member interest with the facilitating member interest; a facilitation order may also consist of both sides comprised of member interest with the instruction to cross the members' orders.

Participants may place simple-facilitation orders or may attach contingency instructions on facilitation orders, whereby certain conditions must be met for execution, as indicated below:

—Simple-facilitation: match the facilitator as contra-side to the accompanying order to the full extent permissible for the facilitator under the Morning Session's priority rule for facilitation-cross orders, but to also, nonetheless, allow any other order(s) with priority over the facilitator to be matched as the contra-side to the accompanying order.
—Facilitation-only: only execute the cross if the facilitator can be completely matched with the accompanying order; otherwise both sides of the facilitation-only order are cancelled.
—Facilitation-minimum: only execute if the facilitator can be matched on a specified minimum number of shares with the accompanying order.
—Facilitation-if-necessary: only match the facilitator to the accompanying order if no other orders or commitments can be matched with the order.

Execution and Priority of Orders

Orders for the Morning Session will be matched at approximately 9:16 A.M. (ET). Trades executed through the UTS are printed and cleared as Phlx transactions, executed on the Exchange and cleared through SCCP. In matching VWAP orders for execution during the Morning Session, the following execution priority will apply:

(1) Match non-member User orders (public customers and Registered Investment Advisers acting on behalf of non-member accounts) with other non-member User orders;

(2) Match non-member User orders (not matchable with other non-member User orders) with Member User orders;

(3) Match non-member User orders (not matchable with each other or with member User orders) with commitments;

(4) Match member User orders (not matchable with non-member User orders) with other member User orders; and

(5) Match member User orders (not able to be matched with other User orders) with commitments.

The System will not, however, match commitments with other commitments.

User orders are afforded priority as follows: first by account type, in accordance with the five steps described above; then by order size (largest first, etc.); and then, for orders of the same size and account type, on a chronological basis by time-of-entry. Similarly, commitments are prioritized, as follows: first, on the basis of sub-account types, with Off-Floor Liquidity Providers receiving priority over Floor Traders; then, on the basis of commitment size (largest first, etc.); and finally, on a rotational basis among those of the same size and sub-account type.[6]

Notwithstanding the above, cross orders for the accounts of non-members have absolute priority to trade with each other regardless of size or time priority considerations respecting other orders in the security. The non-member side to a facilitation order will have absolute priority to participate regardless of size or time priority of other orders (other than customer-to-customer cross orders), but the member firm side to a facilitated cross, though it will have priority to trade with its customer over other member firm interest, will not have priority over non-member orders.

Participants are allowed to place instructions stipulating that their orders and commitments only be matched with non-member account orders. Orders and commitments must, however, be available for matching against all non-member orders.

VWAP

The VWAP that the Exchange shall assign to each eligible security, which shall be derived daily and publicly disseminated promptly following calculation at 4:15 P.M. (ET) for each of the Exchange's 2,500 eligible equity issues, will be calculated on the basis of those transactions reported during the regular trading session to the appropriate reporting authority, Consolidated Tape or other reporting authority. Generally, consistent with Rule 111, all UTS matches create a binding contract. However, in the case where a transaction occurs in the Morning Session in a security that has not opened for trading by 3:00 P.M. (ET) on the primary market, the respective Morning Session transaction will be voided and a report to that effect will be sent immediately to all matched Participants.

In general, the VWAP for each eligible security shall be calculated by: (i) utilizing all regular way trades (including sold sales and late sales[7])

[6] For commitments of the same subaccount type and size, the System will choose commitments to be matched on a random basis. Telephone conversation between Jennifer S. Choi, Division of Market Regulation, SEC, and Edith Hallahan, Special Counsel, Regulatory Services, Phlx, on May 22, 1996.

[7] A late sale is an option transaction that is a correct last sale but is publicly disseminated later than is generally required. Generally, each option

Continued

effected from the opening of the regular trading session and printed prior to 4:15:00 P.M. (ET) by the appropriate reporting authority,[8] (ii) multiplying each respective reported price by the total number of shares traded at that price; (iii) adding together each of these calculated values, compiling an aggregate sum, and (iv) dividing the aggregate sum by the total number of reported shares for that day in the security. The resulting VWAP will be reported in the form of a fraction, rounded to the nearest 1/256th.

Reporting

Although the UTS will become available for all Exchange securities, different reporting schemes will be employed for exchange-listed securities and for Nasdaq National Market securities. All UTS transactions will first be reported to the respective reporting authorities at approximately 9:20 A.M. (ET) as a single volume print including all matches in all securities. The morning print for listed securities will occur by way of an administrative message over the Consolidated Tape reflecting total volume in exchange-listed securities. The morning print for Nasdaq securities will occur in similar fashion by way of a direct linkage to the National Association of Securities Dealers, Inc. (''NASD''). The morning prints are intended to notify investors regarding pre-opening volume.

Paritcipants, under normal circumstances, will also be notified of their levels of participation by 9:20 A.M. (ET). UTS transactions will be reported to the User and the Committer in the form of automated reports reflecting the number of shares traded by the Participant through the UTS in each issue.

Promptly following calculation of the final VWAP, at approximately 4:20 P.M. (ET), trades are assigned that day's VWAP for that security and will, at that time, be reported to the appropriate reporting authority. The Exchange will continuously calculate the VWAP throughout the trading day, on a minute-by-minute basis, for each issue available for trading. The intra-day VWAP as well as the final VWAP will be available to all UTS Participants through the UTS. Each Morning Session match, once a VWAP is assigned, constitutes a completed transaction for the purpose of reporting the trade to the appropriate reporting authority.

End-of-day prints will normally be reported promptly following calculation of the final VWAP at 4:15 P.M. (ET) and, unlike the morning prints, the end-of-day prints will be printed on a trade-by-trade basis for each individual interested which was matched that morning. Each print will reflect a matched trade and the corresponding VWAP. These trades will be reported to the Consolidated Tape with the sale condition ''B'' indicating average weighted pricing, which will distinguish VWAP trades from other transactions that may possibly be reported after the close (such as after-hours, crossing session or late sales transactions). With respect to Nasdaq National Market securities, the ''W'' indicator will likewise be utilized to indicate average weighted pricing. Reporting to the NASD will occur automatically via computer interface once such interface is completed. The Exchange states that it does not propose to trade Nasdaq securities through the UTS without a computer-to-computer interface to the NASD for reporting purposes.[9]

The UTS will not disseminate orders or commitments, including UTS bid/ask sizes, prior to the Morning Session match or UTS imbalances remaining after the Morning Session match. The purpose of this anonymity is to safeguard against dissemination to any other participant the existence of executed or unexecuted block orders, which, in turn, could, if disseminated, influence the market after the opening of the regular trading day.

Other Provisions

Pursuant to proposed paragraph (h), disputes respecting UTS Morning Session participation, or eligibility of orders or participants, are to be resolved by the Exchange. The Exchange's liability respecting the UTS is limited pursuant to By-Law Article 12–11. Thus, the Exchange is not liable for any damage arising from the use of the UTS. With respect to trading halts, Rule 237 is not intended to limit the ability of the Exchange to otherwise halt or suspend trading in any stock traded through the UTS. The Exchange may determine, due to extraordinary circumstances to adjust or modify any of the times referenced by this rule respecting the order entry period, order matching period or any aspect of the transaction reporting procedures. Lastly, short sales are governed by proposed paragraph (g), which states that UTS Morning Session orders and commitments are not subject to the short sale restrictions of Rule 455.[10] Further, positions resulting from UTS Morning Session transactions are effective for the purpose of determining long or short status, immediately upon notification tot he participant of a UTS execution, notwithstanding that the VWAP has not yet been determined.

The specific text of the proposed rule change is available at the Exchange and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

During the past ten years, listed equities trading volume has experienced explosive growth, from 31.9 billion shares in 1985 to 98 billion shares in 1995. At the same time, Nasdaq volume grew at an even greater pace, from 20.6 billion shares in 1985 to 102 billion shares in 1995. Together, for 1995, the listed exchange markets and Nasdaq (collectively, ''the markets'') traded in excess of 200 billion shares. A contributing factor to this volume surge is the increasing presence of institutional trading. The Exchange expects that over ten million trades of 5,000 shares or more will be executed in the markets during this year.

Although institutional trading of block orders often consists of member firms trading for their proprietary accounts, the vast majority of such trading is for the benefit of non-member accounts. The common thread among most of these non-member block orders is that the investment focus is long-term, rather than short-term. When the investment focus is long-term, intra-day

transaction is required to be publicly disseminated within 90 seconds after the execution. A sold sale designates a transaction appearing on the tape out of its proper sequence.

[8] However, prints representing trades executed after regular trading hours (9:30 A.M. to 4:00 P.M. (ET)), such as the Phlx's Post Primary Session (''PPS'') as well as the Pacific Stock Exchange, Inc. (''PSE''), will not be utilized in the VWAP calculation after 4:02 P.M. (ET).

[9] The Exchange notes that Nasdaq issues traded on the Exchange during regular trading hours would currently be reported directly to the NASD utilizing Nasdaq terminals.

[10] For short sales, orders will be marked pursuant to Rule 455. *See proposed Phlx Rule 237(g).*

price drops occurring when positions are purchased or sold are problematic ''bumps'' in the road. Many long-term investors prefer to avoid such drops, even though an opportunity to buy at the low or sell at the high may be lost. Smoothing over these bumps would be beneficial to long-term investors. In this vein, long-term investors often link the ability to secure fair prices to the ability to retain anonymity while ''working'' large orders.

On the other hand, member firms typically use intra-day volatility as an opportunity to trade in the short term. Such firms do so either as facilitators for their customer orders, arbitrageur or as registered floor traders. Many of these traders welcome the opportunities presented by additional volume and volatility. Thus, diverting such intra-day risks from long-term investors (who seek to avoid such risks) to proprietary traders (who seek to assume such risks) is the primary goal of the Phlx's proposal to adopt a Morning Session for the execution of large-sized securities on a VWAP basis.

By placing intra-day price risks on those most willing, and most suited, to accept such risks, the Morning Session will serve both institutional investors and proprietary traders. The advantages of the Morning Session will be available to all qualified market participants for eligible sized orders. Institutions, which will particularly benefit from the session, however, include corporate pension funds, state and municipal pension funds, major money managers and mutual funds. In addition to offering fair pricing, the session will also be cost effective, as it will often replace the costs of ''working'' an order over the course of a day or longer, with the ease of a single execution and single transaction charge.

The Phlx believes that the UTS is an innovative new automated system, which complements the existing auction market. By integrating order entry functions for customer orders into an automated matching system with floor traders as well as off-floor traders serving as facilitators, and then executing such orders on a VWAP basis in a manner designed to facilitate customer interests first, the UTS incorporates the principles of an auction market with the automation benefits of an electronic execution system. Thus, the Exchange believes that the UTS, as a new data processing and communication technique, creates the opportunity for more efficient and effective market operations, consistent with Section 11A(a)(1)(B) of the Act, by providing increased execution alternatives to investors. By combining pricing in terms of a VWAP with the ability to access block-sized liquidity commitments, and by providing the ability to anonymously effect such block-sized orders prior to the opening of the regular session, the Exchange's Morning Session should particularly accommodate institutional customer interests.

The Exchange proposes to adopt Rule 237 to establish and govern the UTS. In general, the UTS will accept orders and commitments of established minimum volumes (*i.e.*, 5,000 shares for orders and 2,500 shares for commitments), executing orders against other orders and commitments at the VWAP. The VWAP will be assigned to each matched trade and reported to the appropriate reporting authority, Consolidated Tape or directly to the NASD, including trade-by-trade volume and the VWAP. Consistent with Rule 11Aa3–1 under the Act, the Exchange will thereby provide for the collection and dissemination of transaction reports containing, among other things, the price of the security. Because the System's matching process should be completed prior to the time of the opening of the Phlx market at 9:30 A.M. (ET), the issue of the integration of UTS orders into the auction market is not raised by the proposal.

The Exchange recognizes that Section 11Ac1–1 under the Act bids/offers will not be utilized in the UTS within the meaning of the rule because all orders are executable only at the VWAP, rendering bids/offers meaningless.[11] Further, UTS orders do not raise price priority issues because all orders have been entered for execution at the VWAP. The UTS will executive orders bases on the priority principles enumerated in Rule 237, which is consistent with Section 11(a) of the Act, in that members yield priority to non-members. Off-Floor Liquidity Providers receive priority over Floor Traders to encourage commitments. Because Floor Traders' priority is last-in-line, no issue of Specialists trading ahead of customers is raised by the UTS.

The Exchange believes that the proposed reporting scheme provides transparency to Morning Session executions, specifically identifying the total volume executed before the opening, first as a single print and, once the VWAP is calculated, trade-by-trade. With respect to Nasdaq National Market securities, the Exchange believes that reporting UTS transactions to the NASD by computer interface is consistent with the Joint Industry Plan [12] (''Plan'') adopted pursuant to Section 12(f) of the Act, which governs the collection, consolidation and dissemination of quotation and transaction information for Nasdaq National Market securities listed or traded pursuant to UTP on an exchange. The Exchange does not believe that the Plan precludes VWAP trading, but rather that the Plan focuses on assuring adequate reporting of covered securities. The Exchange's proposal to report directly to the NASD is thus consistent with the Plan.

The UTS will operate as a facility of the Exchange within the meaning of Section 3(a)(2) of the Act, in that the UTS utilizes Phlx equipment and personnel, floor trader participation, and SCCP to clear UTS trades. Thus, Morning Session trades will be appropriately regulated and reported as Exchange trades. The Phlx notes that this is similar to the regulatory treatment afforded to after-hours trading sessions on the Exchange as well as other exchanges.[13]

As previously stated, the VWAP will be calculated on the basis of those transactions reported by the appropriate reporting authority for the respective security from the beginning of the regular trading session to 4:15 P.M. (ET). In the case where a transaction occurs in the Morning Session in a security that has not opened for trading that day for any reason in the primary market by 3:00 P.M. (ET), the respective Morning Session transaction will be voided and a report to that effect will be immediately sent. The Exchange believes that establishing a specific time frame by which a security must trade givers further assurance that the VWAP will consist of a representative sample of trades from which to derive a calculation. Additionally, this provision will also serve the important function of prompt notice that the Morning Session transaction will be voided if the primary market has not yet opened in a particular issue. Although written confirmation will follow, Users will be aware that this rare exception to the creation of a binding contract through the UTS may occur by observing that an issue failed to open on its primary market. The 3:00 P.M. (ET) cut-off provides an objective limitation on the

[11] The Exchange has requested exemptive relief from the requirements of this Rule. *See* letter from Gerald D. O'Connell, First Vice President, Phlx, to Larry E. Bergmann, Assistant Director, Division of Market Regulation, SEC, dated February 28, 1996. In this letter, the Exchange has also requested interpretive relief regarding Rule 11A2–2(T) under the Act.

[12] This Plan was recently amended and extended by the Commission. *See* Securities Act Release No. 36481 (Nov. 13, 1995) (File No. S7–24–89).

[13] *See e.g.*, Securities Exchange Act Release No. 29237 (May 24, 1991) (File No. SR–NYSE–90–52 and SR–NYSE–90–53 establishing an off-hours trading facility).

VWAP calculation, which notifies the User that a representative VWAP cannot be calculated for that day. The Exchange has determined that the 3:00 P.M. (ET) provision is preferable to calculating a VWAP based on the previous day's pricing, because an important purpose of the VWAP is to incorporate and average that day's price movement.

With respect to trading halts, if a security opens for trading but is the subject of a halt and does not resume trading for the remainder of the day, the Morning Session transaction is based on the prints that occurred before the halt. The Exchange realizes that a security may only be open for a short time before it is halted; however, the Exchange believes that for the purposes of the UTS VWAP calculation, trading that occurs prior to a halt forms a reasonable basis for calculating a VWAP for that day, even if the security does not reopen that day. A significant amount of price discovery is involved in an opening print, such that it provides an appropriate VWAP measure, which is preferable to voiding that day's UTS trades.

Nevertheless, the Exchange maintains that the Morning Session execution is an executed Exchange contract, with only one unusual circumstance enumerated above. The Exchange notes that although utilizing the VWAP as a pricing mechanism is new to exchange trading, block trades as well as certain Nasdaq trades are currently reported as average weighted pricing trades.

With respect to access to the System, as stated above, Participants may be either Users, who may enter orders, or Committers, who must be Exchange members. Because Users may be non-members of the Exchange, limited non-member access to the UTS is proposed. The Exchange believes that the UTS provides adequate controls regarding limited non-member access to the System. Specifically, orders placed directly by non-members will require a give-up agreement between the non-member and a SCCP member, which must be approved in advance by the Exchange, including a delineation of the credit limits for the respective customer. Thus, the clearing member will agree to clear trades for the non-member User up to specified dollar amount.

In addition, a separate ''three way agreement'' concerning disciplinary jurisdiction is also required. The purpose of this arrangement is to ensure that a Phlx clearing member, who must also be a Phlx member, has assumed responsibility for the order. The Exchange member must agree to be jointly and severally liable for all actions of the non-member through the UTS and the non-member must acknowledge its responsibility to all applicable by-laws and rules of the Exchange to the same degree as if the order were placed directly with the give-up firm, providing a jurisdictional basis for disciplinary action against such non-member. The required agreement with the non-member User provides that the Exchange has the right to terminate the User's access to the UTS, without prior notice for any reasons, or no reason whatsoever. In addition, termination of the agreement or clearing arrangement necessarily results in the Exchange's ability to terminate access to the UTS. The Exchange believes that these requirements ensure adequate controls over non-member access, including Exchange supervision of and jurisdiction over non-member Users. The Exchange notice that similar non-member access has been afforded to other exchange systems.[14] Utilizing SCCP facilities and requiring Exchange-approved agreements with non-members are intended to facilitate coordination with persons engaged in clearing and settling these transactions, consistent with Section 6(b)(5).

The Exchange notes that Section 10(a) of the Act governs short sales in securities, while Rule 3b–3 defines the term ''short sale'' as ''any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.'' Further, Rule 3b–3 provides that if a person has ''purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase'' a security, then that person shall be deemed to own that security.[15] Separately, the Exchange has requested exemptive relief from the ''tick test'' of Section 10(a) of the Act.[16] Thus, pursuant to Rule 237(g), UTS Morning Session orders and commitments are not subject to the short sale restrictions of Rule 455. Specifically, because a long position creates an irrevocable contract, a purchase during the UTS Morning Session may be followed by sales during the regular trading session in that security, without such sales deemed short sales.

Lastly, the Exchange proposes to amend Rule 101 to adopt Commentary .03 reflecting the UTS Morning Session and providing reference to Rule 237. The Exchange also proposes minor changes to Rule 101 for clarity and correction. Specifically, A.M. and P.M. would appear in capital letters consistently throughout the rule, and there would be a heading for each commentary. In addition, reference to two specific index options, the Value Line Index Options and National Over-the-Counter Index Options, would be replaced with the language ''broad-based (market) index options,'' which shall freely trade until 4:15 P.M. (ET) each business day. Thus, each Exchange market index option would not have to be listed in this rule; Rule 1101A currently provides such a list of market index options, all of which trade until 4:15 P.M. (ET). The Exchange believes that these changes to Rule 101 should both correct and clarify its provisions.

2. Statutory Basis

For the reasons stated above, the Phlx believes that the proposal to operate a Morning Session utilizing the UTS is consistent with the Act, and particularly with Sections 6, 11 and 11A. Specifically, the proposal is consistent with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest, by providing an automated order entry and execution system for securities traded during the Morning Session.

The Exchange anticipates that significant institutional volume could be attracted to the Phlx, which should, in turn, add liquidity to both the Morning Session as well as to the Phlx's regular trading session. The Exchange believes that the UTS provides an important new pricing mechanism for exchange trades—the VWAP. Further, the Exchange believes that the Morning Session should provide a unique opportunity to electronically submit block-sized orders for automatic matching before the regular opening at

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[14] *See* Securities Exchange Act Release No. 35030 (Nov. 30, 1994) (File No. SR–CHX–93–19) (Order approving Chicago Match and, at note 70, reference to the New York Stock Exchange's SuperDOT).

[15] The Exchange also understands that amendments to these provisions propose that if the ownership of a security is claimed by virtue of having entered into a contract to purchase it, the contract must involve a fixed, currently ascertainable amount of the security at a fixed, currently ascertainable price. Separately, the Exchange requested that an exemption for the Morning Session be incorporated into these amendments. *See* letter from Gerald D. O'Connell, First Vice President, Phlx, to Larry E. Bergmann, Assistant Director, Division of Market Regulation, SEC, dated November 9, 1995.

[16] *Id.*

9:30 A.M. (ET). Thus, the UTS should perfect the mechanism of a free and open market and a national market system. The proposal at hand employs specific procedures and safeguards designed to protect investors and the public interest, prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. These procedures include specific execution priority parameters, order entry specifications and Exchange surveillance procedures (separately submitted) designed to monitor UTS transactions. The Exchange also believes that because the UTS Morning Session is limited to a once-per-day session and adequately provides for transparency, despite the requested limited exemptive relief, the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–96–14 and should be submitted by October 2, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–23122 Filed 9–10–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

National Advisory Council Public Meeting

The U.S. Small Business Administration, National Advisory Council, located in the geographical area of Washington, DC will hold a public meeting at 8:00 a.m. on Thursday and Friday, September 12–13, 1996, in the East Room of the Mayflower Hotel, located at 1127 Connecticut Avenue, NW., Washington, DC, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ms. Toy Tolson, U.S. Small Business Administration, 409 3rd St. SW., Washington, DC 20416, (202) 205–7648.

Dated: September 4, 1996.

Michael P. Novelli,

Director, Office of Advisory Council.

[FR Doc. 96–23176 Filed 9–10–96; 8:45 am]

BILLING CODE 8025–01–P

Maine District Advisory Council Meeting

The U.S. Small Business Administration, Maine District Advisory Council, located in the geographical area of Augusta, will hold a public meeting at 9:00 a.m. on Monday September 23, 1996, in the Business Information Center of Maine, located at The Bates Mill Complex, 35 Canal Street, Lewiston, Maine, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Roy Perry, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine 04330, (207) 622–8242.

Dated: September 4, 1996.

Michael P. Novelli,

Director, Office of Advisory Council.

[FR Doc. 96–23177 Filed 9–10–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2440]

Advisory Committee on Private International Law; Meeting of Study Group on Electronic Commerce

The Study Group on Electronic Commerce will hold its next meeting from 3:00–8:00 p.m. on Wednesday, September 18 in Dallas, Texas. The purpose of the meeting will be to review legal issues and possible standards or guidelines concerning the establishment of electronic registries to facilitate the recording of interests in moveable commercial property involved in international transactions.

The need for this review arises from the work on draft multilateral treaties involving international commercial finance at two international organizations, the United Nations commission on International Trade Law (UNCITRAL) and the International Institute for the Unification of Private Law (UNIDROIT). The United States is actively participating in both projects. Preliminary decisions may now need to be taken in both organizations whether to base their respective treaties on registry systems, which will involve issues similar to those dealt with under the Uniform Commercial Code, as well as registry systems involving vessels, certain commodities, etc. In addition, both organizations will need to consider whether such registries would be computer-based, and in what manner systems and standards in different countries can be harmonized for purposes of transactions covered by each respective treaty. The establishment of one or more internationally-based registry systems will also need to be considered, which could serve to establish or monitor standards, provide coordination and linkage with nationally-based systems, or provide direct registry services.

In addition, documents are available on the two multilateral commercial law treaty projects from the office designated below; the UNCITRAL project involves international rules for assignment of accounts receivable; the

UNIDROIT project involves rules for international secured interests for mobile equipment.

Requesters may also be interested in the recently completed UNCITRAL rules on electronic commerce, which cover the legal effect and validity of computer messages in commercial transactions, functional equivalents of signatures, writings, etc., attribution of messages, time and place where communications are deemed to have taken place, and other matters.

The meeting of the Advisory Committee Study Group is open to the public up to the capacity of the meeting room. Members of the public who cannot attend are welcome to comment on the referenced documents, including any recommendations for possible U.S. positions on these matters. The meeting will take place at the Southern Methodist University School of Law, 3315 Daniels Avenue, Dallas, Texas in the Thomas Seminar Room at Storey Hall. Persons who expect to attend should advise either the Office of the Legal Adviser (L/PIL), Suite 357 South Building, 2430 E Street, NW., Washington, DC 20037–2800, fax (202) 776–8482 or Professor Peter Winship at SMU at (214) 768–2575 or by fax (214) 768–4330. Documents can be requested from the Office of the Legal Adviser; for further information please contact Harold S. Burman of that office or Professor Winship.

Harold S. Burman,

Advisory Committee, Executive Director.

[FR Doc. 96–23211 Filed 9–10–96; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 3, 1996 [FR 61, page 34921].

DATES: Comments must be submitted on or before October 9, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

United States Coast Guard

Title: Ballast Water Management for Vessels Entering the Great Lakes.

OMB Control Number: 2115–0598.

Affected Public: Owners/operators of vessels who enter the Great Lakes.

Abstract: The collection of information requires vessels entering the Great Lakes through the Saint Lawrence Seaway after operating outside the Exclusive Economic Zone of the United States to keep records of their ballast water management.

Need: Under Title 33 U.S.C. 4711 the Coast Guard has the authority to check and monitor vessels entering the Great Lakes regarding their management of ballast water.

Burden Estimate: The estimated burden is 228 hours annually.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention OST Desk Officer.

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

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–23165 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ending 8/30/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1671.

Date filed: August 30, 1996.

Parties: Members of the International Air Transport Association.

Subject:

TC23 Telex Mail Vote 825
Iran-TC3 fares—r-1
TC3 Telex Mail Vote 826
Taiwan-Japan fares
Telex-Correction—r-2
Intended effective date: October 1, 1996

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–23069 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Updates to Advisory Circular 27–1, Certification of Normal Category Rotorcraft, and Advisory Circular 29–2A, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of Advisory Circular (AC) updates; request for comments.

SUMMARY: This notice announces the availability of and request for comments on updates to AC 27–1, Certification of Normal Category Rotorcraft, and AC 29–2A, Certification of Transport Category Rotorcraft. The updates contain guidance material to bring the AC's up to date with the most recent amendments to 14 Code of Federal Regulations (CFR) parts 27 and 29. Consolidated versions of AC 27 (renumbered as AC 27–1A) and AC 29 (renumbered as AC 29–2B) are scheduled to be published in the summer of 1997. In addition to the updates, AC 27–1A will include changes 1 through 4 to AC 27–1. Likewise, AC 29–2B will include the updates and changes 1 through 3 to AC 29–2A.

DATES: Comments must identify Updates to AC 27–1, or Updates to AC 29–2A, and must be received by October 9, 1996.

ADDRESSES: Submit comments to FAA, Rotorcraft Standards Staff, ASW–110, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110.

FOR FURTHER INFORMATION CONTACT:

Kathy Jones, Rotorcraft Standards Staff, ASW–110, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110, telephone (817) 222–5359; facsimile (817) 222–5961.

SUPPLEMENTARY INFORMATION: Copies of the updates have been mailed to all known affected industry and government entities, both foreign and domestic. Any interested person not receiving these updates may obtain a copy by contacting the person named under the caption **FOR FURTHER INFORMATION CONTACT.**

Interested persons are invited to submit comments on these updates. Comments received may be inspected at the office of the Rotorcraft Standards Staff, FAA, 4th floor, 2601 Meacham Boulevard, Fort Worth, Texas.

Issued in Fort Worth, Texas on August 22, 1996.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–23090 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Air Carrier and General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Aviation Rulemaking Advisory Committee to discuss Air Carrier and General Aviation Maintenance Issues.

DATES: The meeting will be held on September 26, 1996, beginning at 1:00 p.m., and continue on September 27, 1996, from 8:30 a.m. to 4:00 p.m. Arrange for presentations by September 16, 1996.

ADDRESSES: The meeting will be held at the Air Transport Association of America, Suite 1100, 1301 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Higginbotham, Federal Aviation Administration, Office of Rulemaking (ARM–207), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on September 26, 1996, at the Air Transport Association of America, Suite 1100, 1301 Pennsylvania Avenue, NW., Washington, DC 20004. The agenda will include:

- Opening remarks.
- Committee Administration.
- New business.
- A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by September 16, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

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

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–23094 Filed 9–10–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 33007]

Laidlaw Transit, Inc., et al.–Control and Merger Exemption–National School Bus Service, Inc., Charterways Transportation Limited, Enterprise Transit Corp., and MCS Interstate, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice of filing of petition for exemption.

SUMMARY: Laidlaw Transit, Inc. (Laidlaw Transit), a noncarrier, and its direct and indirect corporate affiliates (collectively petitioners) [2] seek an exemption under 49 U.S.C. 13541 from the prior approval requirements of 49 U.S.C. 14303(a)(1) and (a)(4) for Laidlaw Transit to acquire control of, and subsequently merge with, four motor carriers of passengers. Expedited action has been requested.

DATES: Comments must be filed by September 26, 1996. Petitioners may file a reply by October 1, 1996.

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 33007 to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioners' Representative: Mark J. Andrews, Barnes & Thornburg, 1401 Eye Street, N.W., Suite 500, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Laidlaw Transit holds a 100% beneficial interest in the stock of two of the carriers it seeks to acquire: Enterprise Transit Corp. (ETC), a motor common carrier of passengers (MC–161299) [3]; and MCS Interstate, Inc. (MCSI), a motor common and contract carrier of passengers (MC–200701). The stock of ETC and MCSI is currently held in separate, independent voting trusts that are to terminate when this exemption is granted.[4]

Laidlaw Transit seeks to acquire control of the other two carriers, National School Bus Service, Inc. (NSBS) (MC–69623), and Charterways Transportation Limited (Charterways) (MC–102189), and has purchased more than 99% of the stock of their corporate parent, Scott's Hospitality Inc. (Scott), a noncarrier.[5] According to petitioners, NSBS primarily provides school transportation services within the United States and holds both interstate authority as a motor common and contract carrier of passengers in regular route service and charter and special operations and intrastate authorities to transport passengers in eight states. Charterways primarily provides school transportation services within Canada and holds interstate authority as a motor common carrier of passengers in regular route service and charter and special operations.[6]

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (1995) (ICCTA), abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board) effective on January 1, 1996. This notice relates to a motor carrier passenger acquisition of control and merger transaction that is subject to Board jurisdiction under 49 U.S.C. 13541 and 14303.

[2] Laidlaw Transit is a wholly owned subsidiary of Laidlaw Transportation, Inc., a noncarrier and wholly owned subsidiary of Laidlaw Investments Ltd., a noncarrier and a wholly owned subsidiary of Laidlaw Inc. (Laidlaw). A controlling interest in Laidlaw is held by Canadian Pacific Railway Company (CP Rail), a wholly owned subsidiary of Canadian Pacific Limited, a publicly held noncarrier holding company. CP Rail operates as CP Rail System, a Class I rail carrier, on the lines of the former Soo Line Railroad Company.

[3] According to the records of the Federal Highway Administration, Office of Motor Carrier Records (FHWA), ETC's authority under this docket was revoked on April 26, 1996.

[4] Petitioners state that, as a CP Rail affiliate, Laidlaw Transit was barred from acquiring or becoming a regulated motor carrier unless the special rail-motor acquisition criteria of former 49 U.S.C. 11344(c) could be satisfied. Under the criteria, it had to be shown that the rail carrier could use the acquired motor carrier ''to public advantage in its operations.'' Thus, the stock of ETC and MCS had to be held in separate, independent voting trusts because they primarily engaged in non-regulated school bus transportation and, as a consequence, Laidlaw Transit was unable to make the required showing. Because the intermodal acquisition restrictions of former 49 U.S.C. 11344(c) were repealed by the ICCTA, petitioners state that the proposed exemption will remove the final impediment to terminating the voting trusts.

[5] NSBS's stock is owned indirectly by a wholly owned subsidiary of Scott, and Charterways' stock is owned directly by Scott. Scott also has subsidiaries that are engaged in food services. The food service businesses are to be sold to third parties.

[6] According to petitioners, Charterways does not operate from, to, or within the United States. FHWA records indicate that the authority under this docket was revoked on September 1, 1995. Petitioners also

Continued

After the acquisition is completed, the four carriers will be wholly owned subsidiaries of Laidlaw Transit, and will subsequently be merged upstream into Laidlaw Transit.[7]

Petitioners state that the proposed transactions will have only an incidental effect on regulated transportation because they primarily concern carriers providing non-regulated school transportation services. Laidlaw Transit is the largest provider of school transportation in North America;[8] only 5% of its revenues allegedly are derived from regulated operations. Petitioners anticipate that the acquisition of NSBS and Charterways will not appreciably change this percentage.[9]

Petitioners state that the proposed transaction will permit the use of their buses to perform regulated charter and special operation services when the buses would otherwise be idle (i.e. during the school day, in the evenings, and on weekends and vacations). Additionally, they state that the proposed exemption will also reduce their administrative burdens, including those associated with duplicative regulatory filings for multiple corporate entities, and those related to unnecessary trustee arrangements and fees.

Petitioners certify that they plan no significant changes in operations or employment levels as a result of the transaction. Moreover, they assert that the validity of all collective bargaining agreements to which the involved carriers are party will be recognized.

Additional information may be obtained from petitioners' representatives.

Decided: August 28, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–23216 Filed 9–10–96; 8:45 am]

BILLING CODE 4915–00–P

state that, through a special division, Charterways holds inactive authority to transport property (MC–134301).

[7] Petitioners state that Laidlaw has two other motor carrier affiliates that hold common and contract property authority: Corsan Trucking, Inc. (Corsan) (MC–200565); and PPM Canada Inc. (PPM) (MC–241369). They assert that the stock of Corsan is 100% beneficially owned by Laidlaw Environmental Services, Inc., a wholly owned Laidlaw subsidiary, and legal title is currently held in an independent voting trust. PPM is described as inactive; it does not currently provide motor carrier service within the United States. Petitioners state that they intend to terminate the voting trust for Corsan, but, before they do, they request that continued control of Corsan and PPM be included within the requested exemption or that jurisdiction over these affiliations be disclaimed.

Although petitioners acknowledge that it is not within our jurisdiction, they request that the MC number currently assigned to ETC (MC–161299) be assigned to Laidlaw Transit after the merger is completed. They contend that this would be more economical because the ETC number appears on the great majority of vehicles that will be designated for use in regulated operations, and, as a consequence, repainting costs would be minimized.

[8] According to petitioners, Laidlaw Transit holds intrastate operating authority as a motor carrier of passengers in 17 states; it holds no interstate operating authority.

[9] Because Laidlaw Transit holds no interstate operating authority, its regulated revenues presumably are derived from the regulated operations (charter and special operations) of its affiliates, but MCSI is described as inactive, and ETC's authority appears to have been revoked.

[STB Finance Docket No. 33014]

Modesto and Empire Traction Company, Beard Land and Investment Co., Beard Land Improvement Company, and New Modesto and Empire Traction Company—Corporate Family Transaction Exemption

Modesto [1] and Empire Traction Company (MET), Beard Land and Investment Co. (BI), Beard Land Improvement Company (BL), and New Modesto and Empire Traction Company (NMET), have filed a joint notice of exemption to undertake a corporate family transaction. MET, a short line rail carrier, will merge into its parent BI, a noncarrier. BI and BL, a noncarrier subsidiary of MET, will concurrently transfer certain rail properties to NMET, a noncarrier company, in exchange for its common stock. The name of the surviving corporation will then be changed to Modesto and Empire Traction Company. The proposed transaction was to be consummated on the date of final agreement of parties but not sooner than August 19, 1996, the effective date of the exemption.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers operating outside applicants' corporate family. The purpose of the transaction is to simplify corporate structure to achieve certain economies and efficiencies in the surviving corporation.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33014, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: John B. Lowry, McCutchen, Doyle, Brown & Enersen, Three Embarcadero Center, 18th Floor, San Francisco, CA 94111.

Decided: September 5, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–23215 Filed 9–10–96; 8:45 am]

BILLING CODE 4915–00–P

[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 Board jurisdiction pursuant to 49 U.S.C. 11323.

DEPARTMENT OF THE TREASURY

[Treasury Order Number 107–06]

Alternative Dispute Resolution, Authority Delegation

1. Pursuant to the authority vested in the Secretary of the Treasury, including the authority in 5 U.S.C. 301 and 31 U.S.C. 321(b), I hereby designate the General Counsel to be the Department's Dispute Resolution Specialist and delegate to the General Counsel authority over all matters that are commonly referred to, and related to, alternative dispute resolution, including negotiated rulemaking.

2. The authority delegated by this Order includes but is not limited to:

a. the promulgation of Departmentwide policy and the promulgation of regulations; and

b. the development of guidance necessary to comply with applicable law and Executive Orders.

3. With respect to the exercise of authority delegated pursuant to paragraph 2.a., the General Counsel shall consult with other concerned offices in the Departmental Offices and the Treasury bureaus, as appropriate.

4. The authority delegated by this Order may be redelegated by the General Counsel, or the General Counsel's delegate, to any attorney within the Legal Division of the Department. Any such redelegation shall be in writing.

5. Nothing in this Order shall be construed to affect the authority of any officer or employee of the Department of the Treasury.

6. This Order shall be effective immediately and shall remain in effect until rescinded in writing.

Dated: August 30, 1996.

Robert E. Rubin,

Secretary of the Treasury.

[FR Doc. 96–23157 Filed 9–10–96; 8:45 am]

BILLING CODE 4810–25–P

Fiscal Service

Proposed Collection of Information: Trace Request for EFT Payment; Correction

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Correction.

SUMMARY: In notice document 96–16661 beginning on page 33960 in the issue of Monday, July 1, 1996, make the following correction:

On page 33960, in the second column, in the **SUPPLEMENTARY INFORMATION** section, the form number should be ''FMS–150.''

Dated: September 6, 1996.

Mitchell A. Levine,

Assistant Commissioner.

[FR Doc. 96–23189 Filed 9–10–96; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, ''Queen Nefertiti and the Royal Women: Images of Beauty from Ancient Egypt'' (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art from on or about October 7, 1996, through February 2, 1997, is in the national interest. Public Notice of these determinations is ordered to be published in the Federal Register.

Dated: September 5, 1996.

Les Jin,

General Counsel.

[FR Doc. 96–23162 Filed 9–10–96; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Federal Register

Wednesday
September 11, 1996

Part II

Department of Energy

41 CFR Ch. 109

Property Management Regulations; Proposed Rule

DEPARTMENT OF ENERGY

41 CFR Ch. 109

RIN 1991–AA28

Department of Energy Property Management Regulations

AGENCY: Department of Energy.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is publishing a Notice of Proposed Rulemaking to reissue the Department of Energy Property Management Regulation (DOE–PMR) in its entirety. This action is being taken to update the DOE–PMR by deleting obsolete/unnecessary material and incorporating policy and procedure changes issued previously by the Department through Personal Property Letters and DOE–PMR Bulletins. This action will provide DOE organizations and DOE contractors an up-to-date, single source for guidance on personal property matters peculiar to the Department.

DATES: Written comments on the proposed rulemaking must be received on or before November 12, 1996.

ADDRESSES: Comments (3 copies) on the proposed rulemaking should be addressed to the U.S. Department of Energy, Office of Contractor Management & Administration (HR–55), Attention: Julia Harman, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Julia Harman, Office of Contractor Management & Administration (HR–55), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone 202–586–1435.

SUPPLEMENTARY INFORMATION:

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I. Background.

The DOE–PMR published at 41 CFR ch. 109 has not been updated since 1984 and consequently does not fully reflect interim changes in policy and procedures that were issued in Personal Property Letters and DOE–PMR Bulletins affecting the Department's direct operations and its contractors. These changes, made to comply with Executive Orders, statutory requirements, and commitments made to Congress regarding weaknesses identified the Department's personal property management practices, are being incorporated to bring the DOE–PMR up to date.

While the Department firmly supports the President's initiative to bring about significant regulatory reform and reduction, the DOE–PMR presents a unique challenge because it has not been attended to for years. In tackling that challenge, the Department has committed to a two-stage approach:

1. Bring the DOE–PMR up to date, thereby creating a baseline for regulatory reform. That is being done by this rulemaking.

2. Significantly reduce the baseline DOE–PMR over the next eighteen months. Because the DOE–PMR deals primarily with internal property management matters and has limited public impact, we intend to use other internal mechanisms to disseminate future Departmental personal property management direction.

II. Section-by-Section Analysis

The following is an analysis of the sections being added, deleted, or changed under this proposed rule:

A. Subchapter A—General

1. Section 109–1.100–51 ''Definitions and Acronyms'' is moved from § 109–1.5101 and adds definitions for administratively controlled items, designated contractors, and high-risk property; replaces § 109–1.103–50 on Bulletins with an explanation on the use of Personal Property Letters and Bulletins; and contains a list of frequently used acronyms.

2. Section 109–1.5103 ''Loan of personal property'' requires use of the DOE loan form for all loans.

3. Section 109–1.5108 ''Personal property records requirements'' and subsections are added.

4. Section 109–1.5110 ''Physical inventories of personal property'' designates the Organizational Property Management Officer (OPMO), in lieu of the Director of Administration and heads of field offices, as the reviewing and approving official for physical inventory methods (statistical sampling and inventory by exception) and procedures; changes the requirement for precious metals physical inventories from semiannual to annual; and adds requirements for administratively controlled items.

5. Section 109–1.5148 ''Personal property management reports'' is revised to reflect new reporting requirements.

6. Section 109–1.5202 ''Establishment of a personal property holdings baseline'' is added to establish a personal property baseline for new contractors through the use of the previous contractors' property records or by performing complete physical inventories.

7. Section 109–1.5203 ''Management of subcontractor-held personal property'' is added to establish requirements for subcontractor property management systems.

8. Section 109–1.5204 ''Review and approval of a designated contractor's personal property management system'' is added, setting follow-up appraisals at three-year intervals after system approval in lieu of contract execution date; stating that contracting officers shall approve, conditionally approve, or disapprove a system; requiring the maintenance and ready availability of copies of appraisals and approvals; and removing the requirement for another initial review on extended contracts.

9. Section 109–1.5205 ''Property management system changes'' is added, requiring property administrators to review and approve all proposed changes to a contractor's approved system.

10. Section 109–1.5205 ''Reporting'' is deleted, considered not required.

11. Subpart 109–1.53 ''Management of high risk personal property'' is added, based on interim guidance issued in Personal Property Letter 970–3, dated March 25, 1996.

12. Subpart 109–6.4 ''Official Use of Government Passenger Carriers Between Residence and Place of Employment'' contains information formerly found in subpart 109–38.54.

13. Section 109–6.400–50 ''Instructions to DOE passenger carrier operators'' adds use of seat belts and income tax liability and prohibits smoking in GSA–IFMS vehicles.

14. Section 109–6.402 ''Policy'' clarifies the authority for home-to-work use by DOE officials and employees and adds sharing of space in vehicles.

B. Subchapter C—Defense Materials

15. Part 109–14 ''National Defense Stockpile'' is deleted as a result of the discontinuance of FPMR Part 101–14, National Defense Stockpile

C. Subchapter E—Supply and Procurement

16. Section 109–25.101–1–50 ''Definitions'' is deleted.

17. Section 109–25.103 ''Promotional materials, trading stamps, and bonus goods'' adds new requirement for establishing procedures for receipt and disposition of this property.

18. Section 109–25.109 ''Laboratory and research equipment'' is modified to limit controls to equipment directly associated with the conduct of laboratory research, development, and testing.

19. Section 109–25.109–1 ''Identification of idle equipment'' no longer requires a report of walk-throughs to be submitted to the head of the facility; requires the maintenance of documentation on walk-throughs; and designates the OPMO, in lieu of heads of field offices and contracting officers, as the individual who reviews walk-throughs and practices.

20. Section 109–25.302–6 ''Electronic office machines'' requires DOE offices and designated contractors, in lieu of the Director of Administration and heads of field offices, to establish utilization procedures and standards.

21. Subpart 109–25.48 ''Reports'' is deleted. The Supply Activity Report is no longer required to be submitted by those offices not reporting under the DOE financial reporting system.

22. Section 109–26.501 ''Purchase of new motor vehicles'' requires that the acquisitions of motor vehicles be accomplished in accordance with this section. The requirements were removed from the DOE Acquisition Regulation Part 908.

23. Section 109–26.501–50 ''Authority and allocations for the acquisition of passenger motor vehicles'' (formerly §§ 109–38.5101 and 109–38. 5102) deletes the requirement for field offices to report unused allocations, unless requested by the Departmental Property Management Officer or designee.

24. Section 109–26.501–51 ''Used vehicles'' is added to establish policy for purchasing used vehicles where justified by special circumstances.

25. Section 109–26.501–52 ''Justification for purchase'' is added to require that a written justification for purchase of a motor vehicle must accompany the requisition.

26. Section 109–27.102–50 ''Systems contracting'' is added as an alternate method for stock inventory replenishment.

27. Section 109–27.5004–2 ''Construction inventories'' is deleted.

28. Section 109–27.5005 ''Guide levels for construction inventories'' is deleted.

29. Section 109–27.5009 ''Control of hypodermic needles and syringes'' is modified, adding syringes as a control item.

30. Section 109–27.5012–3 ''Federal standards applicable to marking'' is deleted.

31. Subpart 109–27.51 ''Management of Equipment Held for Future Projects'' is moved to subpart 109–28.50, ''Management of Equipment Held for Future Projects.''

32. Subpart 109–27.52 ''Management of Spare Equipment'' is moved to subpart 109–28.51, ''Management of Spare Equipment.''

33. Section 109–27.5104–4 ''Physical inventories'' revises the precious metals physical inventory requirement from semiannual to annual.

34. Section 109–27.5104–5 ''Control and issue of stock'' formerly was § 109–27.5304–6 ''Stock issue.''

35. Section 109–27.5106–3 ''Returns'' strengthens the requirement for returning excess precious metals to the precious metals pool by substituting the word ''must'' for ''should.''

36. Section 109–28.000–51 ''Storage guidelines,'' formerly § 109–28.001–51, is revised and condensed to eliminate unneeded material. Guidance is added to address hazardous, contaminated, nuclear-related, and proliferation sensitive property.

37. Section 109–28.306–3 ''Limitations on use,'' formerly § 109–28.308–3, requires DOE offices and designated contractors, in lieu of the Director of Administration and heads of field offices, to establish controls for use of customer supply center (CSC) accounts.

38. Section 109–28.306–5 ''Safeguards,'' formerly § 109–28.308–6, requires DOE offices and designated contractors, in lieu of the Director of Administration and heads of field offices, to establish controls on customer access codes for CSC accounts.

39. Subpart 109–28.50 ''Management of Equipment Held for Future Projects'' formerly was subpart 109–27.51.

40. Section 109–28.5005 ''EHFFP program review,'' formerly § 109–27.5106 ''Field organization review'', requires OPMOs, in lieu of heads of field offices and contracting officers, to conduct reviews of equipment held for future projects (EHFFP) programs.

41. Subpart 109–28.51 ''Management of Spare Equipment'' formerly was subpart 109–27.52.

42. Part 109–29 ''Federal Specifications and Standards'', is deleted.

D. Subchapter F—ADP and Telecommunications

43. Part 109–35 ''Telecommunications'', is deleted.

44. Part 109–36 ''ADP Management'', is deleted.

E. Subchapter G—Aviation, Transportation, and Motor Vehicles

45. Part 109–37 ''Government aviation administration and coordination'' added, expanding guidance formerly found in subpart 109–38.52.

46. Section 109–38.000–50 ''Policy'' (aircraft portion only) is moved to part 109–37 since aircraft management responsibility has been transferred to the Assistant Secretary for Environment, Safety, and Health.

47. Subpart 109–38.3 ''Official Use of Government Motor Vehicles'' applies only to designated contractors. Official use for DOE employees is covered in subpart 109–6.4.

48. Section 109–38.301–1.50 ''Authorization for transportation between residence and place of employment'' states that such use is to be provided for under terms of the contract, and is to be approved by DOE contracting official.

49. Section 109–38.301–1.51 ''Emergency use'' clarifies what is emergency use, including unscheduled overtime.

50. Section 109–38.301–1.52 ''Maintenance of records'' requires the maintenance of logs for home-to-work use of motor vehicles.

51. Section 109–38.301–1.53 ''Responsibilities of motor vehicle operators'' references for contractor employees the same motor vehicle operator responsibilities in § 109–6.400–50 that apply to Federal employees. Use of seat belts and potential tax liability are also added.

52. Section 109–38.1306 ''Acquisition of fuel-efficient passenger automobiles'' is deleted since acquisition plans are no longer to be submitted to Headquarters.

53. Subpart 109–38.51 ''Utilization of Motor Equipment,'' formerly subpart 109–38.50, adds utilization requirements for motor equipment other than motor vehicles.

54. Section 109–38.5101 ''Policy'' adds motor equipment and GSA Interagency Fleet Management System motor vehicles.

55. Section 109–38.5102 ''Utilization controls and practices'' adds charge-back provisions and use of dual-purpose vehicles, motor scooters, motorcycles, and electric vehicles.

56. Section 109–38.5103 ''Motor vehicle utilization standards'' requires annual usage reviews of other trucks,

ambulances, buses, and motor equipment other than motor vehicles to justify retention.

57. Section 109–38.5106 ''Application of motor vehicle use goals'' is added requiring annual reviews of vehicle utilization statistics, identification of vehicles not meeting goals, justification of their retention by users, or reassignment or disposition.

58. Former subpart 109–38.51 ''Acquisition of Motor Vehicles'' is now subpart 109–26.5 ''GSA Procurement Programs''.

59. Policy and procedures on the official use of motor vehicles, formerly found in subpart 109–38.54 ''Official Use of Motor Vehicles and Aircraft'', is now found in 109–6.4 ''Official Use of Government Carriers Between Residence and Place of Employment'' and subpart 109–38.3 ''Official Use of Government Motor Vehicles''.

60. Section 109–38.5410 ''Use of motor vehicles by the Postal Service'' is deleted.

61. Subpart 109–39.3 ''Use and Care of GSA Interagency Fleet Management System Vehicles'' prohibits smoking in these vehicles and requires a review of utilization statistics to justify their retention.

F. Subchapter H—Utilization and Disposal

62. Part 109–42 ''Utilization and disposal of hazardous materials and certain categories of property'' is added setting forth policies and procedures for radioactively or chemically contaminated excess and surplus personal property.

63. Part 109–42 ''Property Rehabilitation Services and Facilities'' is moved to subpart 109–45.10.

64. Section 109–43.304–1.50 ''DOE reutilization screening'', formerly § 109–43.311–1–50, is modified to include the Used Energy-Related Laboratory Equipment Grant Program in the DOE screening cycle.

65. Section 109–43.304–4 ''Property at installations due to be discontinued'', formerly § 109–43.311–5, adds new requirements for developing site utilization and disposal programs for installations to be closed.

66. Section 109–43.305–50 ''Nuclear-related and proliferation-sensitive property'' is added to define non-reporting/screening requirements.

67. Section 109–43.307 ''Items requiring special handling'' is added to include the monitoring of hazardous property; designates accepting officials for gifts for defense purposes, conditional gifts, and unconditional gifts; and addresses the disposal of unsafe personal property.

68. Section 109–43.307–50 ''Export controlled property'' adds requirements for export controls, licenses and authorizations.

69. Section 109–43.307–52 ''Nuclear-related or proliferation-sensitive property'' is added to include policy on identification and disposition of this type of property.

70. Section 109–43.307–53 ''ADPE'', formerly § 109–43.313–51, is changed to include requirements for sanitizing ADPE prior to disposal.

71. Section 109–43.313–53 ''Naval gun mounts'' is deleted.

72. Section 109–43.313–54 ''Precious metals'' is deleted, covered by subpart 109–27.51.

73. Section 109–43.313–55 ''Shielding material'' is deleted.

74. Section 109–43.313–57 ''Lead'' is deleted.

75. Section 109–43.4701 ''Performance Reports'' adds the use of form 85–2 and adds fields for the Utilization and Disposal of Excess and Surplus Personal Property report.

76. Section 109–44.702–3 ''Hazardous materials'' is added, making the Director, OAS and the OPMOs responsible for safeguards in the donation of hazardous materials to public bodies.

77. Section 109–45.301–51 ''Export/import clause'' is added as new clause to be added to all sales documents.

78. Section 109–45.304–2.50 ''Negotiated sales and negotiated sales at fixed prices by designated contractors'' criteria in this section is changed from reasonable recovery value of property to be sold not to exceed $1,000 to the fair market value not to exceed $15,000.

79. Section 109–45.309 ''Special classes of property'' is added to address the sale of gold, hazardous property, export controlled property, classified property, nuclear-related or proliferation-sensitive property and ADPE.

80. Section 109–45.309–50 ''Unserviceable Property'' is deleted.

81. Section 109–45.316 ''Report of identical bids'' is deleted.

82. Section 109–45.317 ''Noncollusive bids and proposals'' is added to designate the Heads of field organization to make determinations regarding sale terms and conditions.

83. Former subpart 109–45.5 ''Abandonment or destruction of personal property'' is now subpart 109–45.9.

84. Subpart 109–45.6 ''Debarred, suspended, and ineligible contractors'' is added to require that procedures be established to ensure that listed contractors are not offered solicitations, etc.

85. Subpart 109–45.9 ''Abandonment or destruction of personal property,'' formerly subpart 109–45.5, is changed to allow abandonment or destruction of property if the property has no commercial value or its continued care and handling would cost more than the proceeds from its sale.

86. Subpart 109–45.10 ''Recovery of Precious Metals,'' former subpart 109–42.3 ''Recovery of precious metals and strategic and critical metals,'' is modified to address the recovery of precious metals from items in other than pure form and use of the DoD Precious Metals Recovery Program.

87. Most of subpart 109–45.50 ''Excess and surplus radioactively and chemically contaminated personal property'' is now included in subpart 109–1.53 ''Management of high-risk property.''

88. Part 109–50 ''Programmatic disposal of DOE property'' is renamed to ''Special DOE disposal authorities.''

89. Former subpart 109–50.3 ''Used Energy-Related Laboratory Equipment Grant Program'' is redesignated subpart 109–50.1 and former §§ 109–50.305–5 ''Excess used energy-related laboratory equipment holding organizations'' and 109–50.305–6 ''Screening locations'' are deleted.

90. Subpart 109–50.2 ''Support to Math and Science Education'' is added to provide guidance on providing property to schools with math and science programs.

91. Subpart 109–50.3 ''Economic development'' is added to provide guidance on providing property to community economic development groups.

G. Subchapter I—Industrial Plant Equipment

92. Part 109–51 ''Loans of Industrial Plant Equipment from the Defense Industrial Plant Equipment Center'' is deleted as a result of the discontinuance of FPMR part 101–51.

III. Public Comments

DOE invites interested persons to participate by submitting data, views, or arguments with respect to the DOE–PMR amendments set forth in this rule. The public's participation is especially encouraged with respect to (a) the definition of terms used throughout the DOE–PMR and (b) part 109–50, Special DOE Disposal Authorities since the guidance contained in this part has significant public impact. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this rule. All comments received will be available for public inspection during normal work

hours. All written comments received by the date indicated in the ''DATES'' section of this notice will be carefully assessed and fully considered prior to the effective date of these amendments as a final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to its determination in accordance with 10 CFR 1004.11.

IV. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). Pursuant to appendix A of subpart D of 10 CFR part 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A6), the Department of Energy has determined that this proposed rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

C. Review Under the Paperwork Reduction Act

To the extent that new information collection or recordkeeping requirements are imposed by this rulemaking, they are provided for under Office of Management and Budget paperwork clearance package No. 1910–0300. No new information collection is proposed by this rule.

D. Review Under the Regulatory Flexibility Act

These proposed regulatory amendments were reviewed under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq., which requires preparation of an initial regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. With one exception, the proposed amendments impose compliance requirements only on management and operating contractors who are large businesses. The exception involves requirements to account for and control high risk property. In some instances, these requirements may apply to small business subcontractors. The cost of compliance will be minimal because such subcontractors already have property systems to handle high risk property without costly adjustments. Therefore, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

E. Review Under Executive Order 12612

Executive Order 12612 entitled ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. The Department of Energy has determined that this proposed rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed regulations meet the relevant standards of Executive Order 12988.

G. Public Hearing Determination

DOE has concluded that this proposed rule does not involve any significant issues of law or fact. Therefore, consistent with 5 U.S.C. 553, DOE has not scheduled a public hearing.

List of Subjects in 41 CFR Chapter 109

Government property management.

Issued in Washington, DC, on August 23, 1996.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

For the reasons set forth in the preamble, 41 CFR Chapter 109 is proposed to be revised as set forth below:

CHAPTER 109—DEPARTMENT OF ENERGY

PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

Part

109–1 Introduction.
109–6 Miscellaneous regulations.

SUBCHAPTER B—[RESERVED]

SUBCHAPTER C—[RESERVED]

SUBCHAPTER D—[RESERVED]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

109–25 General.
109–26 Procurement sources and program.
109–27 Inventory management.
109–28 Storage and distribution.
109–30 Federal catalog system.

SUBCHAPTER F—[RESERVED]

SUBCHAPTER G—AVIATION, TRANSPORTATION, AND MOTOR VEHICLES

109–37 Government aviation administration and coordination.
109–38 Motor equipment management.
109–39 Interagency fleet management systems.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

109–42 Utilization and disposal of hazardous materials and certain categories of property.
109–43 Utilization of personal property.
109–44 Donation of personal property.
109–45 Sale, abandonment, or destruction of personal property.
109–46 Utilization and disposal of personal property pursuant to exchange/ sale authority.
109–48 Utilization, donation, or disposal of abandoned and forfeited personal property.
109–50 Special DOE disposal authorities.

SUBCHAPTER A—GENERAL

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109–1.5101 Official use of personal property.
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109–1.5103 Loan of personal property.
109–1.5104 Borrowing of personal property.
109–1.5105 Identification marking of personal property.
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109–1.5108–1 Capital equipment.
109–1.5108–2 Sensitive items.
109–1.5108–3 Stores inventories.
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109–1.5108–5 Administratively controlled items.
109–1.5109 Control of sensitive items.
109–1.5110 Physical inventories of personal property.
109–1.5111 Retirement of property.
109–1.5112 Loss, damage, or destruction of personal property in possession of DOE direct operations.
109–1.5113 Loss, damage, or destruction of personal property in possession of designated contractors.
109–1.5114 Use of non-Government-owned property.
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Subpart 109–1.52—Personal Property Management Program for Designated Contractors

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109–1.5202 Establishment of a personal property holdings baseline.
109–1.5203 Management of subcontractor-held personal property.
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Subpart 109–1.53—Management of High Risk Personal Property

109–1.5300 Scope of subpart.
109–1.5301 Applicability.
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109–1.5304 Procedures.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254)

SUBCHAPTER A—GENERAL

PART 109–1—INTRODUCTION

Subpart 109–1.1—Regulation System

§ 109–1.100–50 Scope of subpart.

This subpart describes the Department of Energy (DOE) Property Management Regulations (DOE–PMR) system which establishes uniform property management policies, regulations, and procedures for use throughout the DOE.

§ 109–1.100–51 Definitions and acronyms.

(a) Definitions. As used in this chapter, the terms *personal property* and *property* are synonymous. In addition, the following definitions apply:

Administratively controlled items means personal property controlled at the discretion of individual DOE offices, but for which there is no DOE requirement to maintain formal records.

Capital equipment means any item of personal property having a unit acquisition cost of $5,000 or more and having the potential for maintaining its integrity (i.e., not expendable due to use) as an item.

Designated contractors means those on-site DOE contractors to which the DOE–PMR is made applicable when included as a contractual requirement. The contractors to which these regulations may be made applicable include management and operating (M&O) contractors, environmental restoration and management contractors, and other major prime contractors located at DOE sites.

Direct operations means operations conducted by DOE personnel.

Disposal means the process of redistributing, transferring, donating, selling, abandoning, destroying, or other disposition of Government-owned personal property.

Especially designed or prepared property means equipment or materials that are especially designed or prepared for nuclear application and listed in the Nuclear Suppliers Group ''trigger list'' published by the International Atomic Energy Agency.

Export controlled property means property the export of which is subject to licensing by the U.S. Department of Commerce or the U.S. Department of State, or authorized by the U.S. Department of Energy.

Hazardous property means any personal property, including scrap or waste but excluding property involving a radiological hazard, that is ignitable, corrosive, reactive, or toxic because of its quantity, concentration, or physical, chemical, or infectious characteristics, or that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Material Transportation Act, the Resource Conservation and Recovery Act, or the Toxic Substances Control Act. Such property may be in solid, liquid, semi-liquid, or contained gas form and may cause or significantly contribute to an increase in mortality or illness, or pose present or potential hazard to human health or the environment when improperly used, treated, stored, transported, disposed of, or mismanaged.

Heads of field organizations means the heads of any Departmental office located outside the Washington, DC metropolitan area. In addition, the Federal Energy Regulatory Commission, and the Office of Headquarters Procurement Operations, shall be considered a field organization for purposes of these regulations.

High risk personal property means property that, because of its potential impact on public health and safety, the environment, national security interests, or proliferation concerns, must be controlled, and disposed of in other than the routine manner. The categories

of high risk property (defined separately in this subpart) are proliferation sensitive property, special nuclear material, hazardous property, radioactive property, and especially designed or prepared property.

Personal property means property of any kind, except for real estate, interests therein (such as easements and rights-of-way), and permanent fixtures which is Government-owned, chartered, rented, or leased from commercial sources by and in the custody of DOE or its designated contractors; source, byproduct, special nuclear materials, and atomic weapons as defined in section 11 of the Atomic Energy Act of 1954, 42 U.S.C. 2014; and petroleum in the Strategic Petroleum Reserve and the Naval Petroleum Reserves.

Personal property management means the development, implementation, and administration of policies, standards, programs, practices and procedures for effective and economical acquisition, receipt, storage, issue, use, control, physical protection, care and maintenance, determination of requirements, maintenance of related operating records, and disposal of personal property (exclusive of the property accounting records).

Proliferation-sensitive property means nuclear-related or dual-use equipment, material, or technology as described in the Nuclear Supplier Group's ''Trigger'' List and Dual-Use List; and equipment, material or technology used in the research, design, development, testing, or production of nuclear or other weapons.

Radioactive property means any item or material that is contaminated with radioactivity and which emits ionizing radiation in excess of background radiation as measured by appropriate instrumentation.

Sensitive items means those items of personal property which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: Firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, portable power tools, portable computers, and portable communications equipment.

Special nuclear material means:

(1) Plutonium, uranium enriched in the isotope of 233 or 235, and any other materials so designated pursuant to section 51 of Atomic Energy Act of 1954, 42 U.S.C. 2071, and

(2) Materials artificially enriched by any of the foregoing.

(b) Acronyms. As used in this chapter, the following acronyms apply:

ADPE—Automatic Data Processing Equipment
CFR—Code of Federal Regulations
CPPSR—Contractor Personal Property System Review
CRO—Community Reuse Organization
CSC—Customer Supply Center
DEAR—Department of Energy Acquisition Regulation
DOD—Department of Defense
DOE—Department of Energy
DOE–PMR—Department of Energy Property Management Regulations
DPMO—Departmental Property Management Officer
ECCN—Export Control Classification Number
ECI—Export Controlled Information
EHFFP—Equipment Held For Future Projects
EOQ—Economic Order Quantity
ERLE—Energy-Related Laboratory Equipment
FAA—Federal Aviation Administration
FAMIS—Federal Aviation Management Information System
FIRMR—Federal Information Resources Management Regulation
FPMR—Federal Property Management Regulations
FSC—Federal Supply Classification
FSCG—Federal Supply Classification Group
GAO—General Accounting Office
GSA—General Services Administration
GVWR—Gross Vehicle Weight Rating
HR—High Risk
IFMS—Interagency Fleet Management System
M&O Management and Operating
MCTL Military Critical Technologies List
NTSB National Transportation Safety Board
OCMA Office of Contractor Management and Administration
OPMO Organizational Property Management Officer
OPSEC Operations Security
PPL Personal Property Letter
REAPS Reportable Excess Automated Property System
SNM Special Nuclear Material
UCNI Unclassified Controlled Nuclear Information
U.S.C United States Code

§ 109–1.101 Federal Property Management Regulations System.

§ 109–1.101–50 DOE–PMR System.

The DOE–PMR system described in this subpart is established to provide uniform personal property management policies, standards, and practices within the Department.

§ 109–1.102 Federal Property Management Regulations.

§ 109–1.102–50 DOE–PMRs.

The DOE–PMRs (41 CFR Ch. 109) implements and supplements the FPMR (41 CFR Ch. 101) issued by the General Services Administration (GSA), Public Laws, Executive Orders, Office of Management and Budget directives, and other agency issuances effecting the Department's personal property management program.

§ 109–1.103 FPMR temporary regulations.

§ 109–1.103–50 DOE–PMR temporary regulations and bulletins

(a) Subject to applicable procedural requirements in 42 U.S.C 7191 and 5 U.S.C 553, Personal Property Letters are authorized for publication when time or extraordinary circumstances will not permit promulgation of an amendment to the Code of Federal Regulations (CFR) affecting DOE direct operations only and if the PPL will be effective for a period of 12 months or less. These PPLs will be codified before the designated expiration date or their effective period will be extended if it is determined that conversion to permanent form cannot be accomplished within the specified time frame.

(b) DOE–PMR Bulletins are used to disseminate information concerning personal property management matters not affecting policy or to clarify instructions in actions required by the FPMR or DOE–PMR.

§ 109–1.104 Publication and distribution of FPMR.

§ 109–1.104–50 Publication and Distribution of DOE–PMR.

The DOE–PMR will be published in the Federal Register and will appear in the CFR as Ch. 109 of Title 41, Public Contracts and Property Management. Looseleaf publications will be distributed to DOE offices.

§ 109–1.106 Applicability of FPMR.

§ 109–1.106–50 Applicability of FPMR and DOE–PMR.

(a) The FPMR and DOE–PMR apply to all direct operations.

(b) The DOE–PMR does not apply to facilities and activities conducted under Executive Order 12344 and Pub. L. 98–525.

(c) Unless otherwise provided in the appropriate part or subpart, the FPMR and DOE–PMR apply to designated contractors.

(d) The Procurement Executive or head of a contracting activity may designate contractors other than designated contractors to which the FPMR and DOE–PMR apply.

(e) The FPMR and DOE–PMR shall be used by contracting officers in the administration of applicable contracts, and in the review, approval, or appraisal of such contractor operations.

(f) Regulations for the management of Government property in the possession of other DOE contractors are contained in the Federal Acquisition Regulation (FAR), 48 CFR part 45, and in the DOE

Acquisition Regulation (DEAR), 48 CFR part 945.

(g) Regulations for the management of personal property held by financial assistance recipients are contained in the DOE Financial Assistance Rules (10 CFR part 600) and DOE Order 534.1, Accounting.

§ 109–1.107 Agency consultation regarding FPMR.

§ 109–1.107–50 Consultation regarding DOE–PMR.

The DOE–PMR shall be fully coordinated with all Departmental elements substantively concerned with the subject matter.

§ 109–1.108 Agency implementation and supplementation of FPMR.

(a) The DOE-PMR shall include basic and significant Departmental personal property management policies and standards which implement, supplement, or deviate from the FPMR. In the absence of any DOE–PMR issuance, the basic FPMR material shall govern.

(b) The DOE–PMR shall be consistent with the FPMR and shall not duplicate or paraphrase the FPMR material.

(c) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE–PMR may be issued by Headquarters or field organizations, provided that the implementing procedures, instructions and guides:

(1) Are consistent with the policies and procedures contained in this regulation as implemented and supplemented from time to time;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicates, paraphrases, or is inconsistent with the contents of this regulation.

§ 109–1.110–50 Deviation procedures.

(a) [Reserved]

(b) Requests for deviations from applicable portions of the FPMR and DOE–PMR (except aviation related portions) shall be forwarded with supporting documentation by the Organizational Property Management Officer (OPMO) to the Departmental Property Management Officer (DPMO).

(c)(1) Requests for deviations from aviation related portions of the FPMR and DOE–PMR concerning aviation operations shall be forwarded by the OPMO with supporting documentation to the DOE Senior Aviation Management Official.

(2) Each request for deviation shall contain the following:

(i) A statement of the deviation desired, including identification of the specific paragraph number(s) of the DOE–PMR;

(ii) The reason why the deviation is considered necessary or would be in the best interest of the Government;

(iii) If applicable, the name of the contractor and identification of the contractor affected;

(iv) A statement as to whether the deviation has been requested previously and, if so, circumstances of the previous request;

(v) A description of the intended effect of the deviation;

(vi) A statement of the period of time for which the deviation is needed; and

(vii) Any pertinent background information which will contribute to a full understanding of the desired deviation.

(d) The Deputy Assistant Secretary for Procurement and Assistance Management is authorized to grant deviations to the DOE–PMR.

(e) Requests for deviations from the FPMR will be coordinated with GSA by the DPMO.

Subpart 109–1.50—Personal Property Management Program

§ 109–1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property management policy and program objectives, and prescribes authorities and responsibilities for the conduct of an effective personal property management program in DOE.

§ 109–1.5001 Policy.

It is DOE policy that a program for the management of personal property shall be established and maintained to meet program needs economically and efficiently and in accordance with applicable Federal statutes and regulations.

§ 109–1.5002 Personal property management program objectives.

The objectives of the DOE personal property management program are to provide:

(a) A system for effectively managing personal property in the custody or possession of DOE organizations and designated contractors; and

(b) Uniform principles, policies, and standards for economical and efficient management of personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

Subpart 109–1.51—Personal Property Management Standards and Practices

§ 109–1.5100 Scope of subpart.

This subpart provides guidance on DOE standards and practices to be applied in the management of personal property. The standards and practices that apply to capital equipment shall be based on the unit acquisition cost threshold specified in the definition of capital equipment contained in § 109–1.100–51 of this part. No other acquisition cost threshold shall apply.

§ 109–1.5101 Official use of personal property.

Personal property shall be used only in the performance of official work of the United States Government, except:

(a) In emergencies threatening loss of life or property;

(b) As otherwise authorized by law and approved by the Director, Office of Administrative Services; heads of field organizations for their respective organizations; or a contracting officer for contractor-held property.

§ 109–1.5102 Maximum use of personal property.

Personal Property management systems shall assure that the best possible use is made of personal property. Supplies and equipment shall be generally limited to those items essential for carrying out the programs of DOE effectively.

§ 109–1.5103 Loan of personal property.

(a) Personal property which is not excess and would otherwise be out of service for temporary periods may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. The loan request shall be in writing, stating the purpose of the loan and period of time required. The loan shall be executed on DOE Form 4420.2, Personal Property Loan Agreement or computer generated equipment when approved in writing by the OPMO. When approved, a memorandum transmitting the loan agreement shall be prepared identifying the loan period, delivery time, method of payment and transportation, and point of delivery and return, to ensure proper control and protect DOE's interest. The loan period shall not exceed one year, but may be renewed in one year increments. Second renewals of loan agreements shall be reviewed and justified at a level of management at least two levels above that of the individual making the determination to loan the property. Third renewals shall be approved by the head of the field organization or designee.

(b) Requests for loans to foreign Governments and other foreign organizations shall be submitted to the Deputy Assistant Secretary for International Energy Policy for approval, with a copy to the cognizant Headquarters program office.

§ 109–1.5104 Borrowing of personal property.

(a) DOE organizations and designated contractors are encouraged to borrow personal property within DOE to further DOE programs. Property classified as Equipment Held For Future Projects (EHFFP) or as In Standby should be reviewed by those receiving availability inquiries for short-term use (one year or less). Borrowing of Government personal property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be covered by written agreements which include all terms of the transaction.

(b) In determining whether it is practical and economical to borrow personal property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

(c) Adequate records and controls shall be established and maintained for borrowed property to ensure its proper control and prompt return to the lender.

§ 109–1.5105 Identification marking of personal property.

(a) Personal property shall be marked ''U.S. Government property'' subject to the criteria below. The markings shall be securely affixed to the property, legible, and conspicuous. Examples of appropriate marking media are bar code labels, decals, and stamping.

(1) Capitalized property and sensitive items shall be marked ''U.S. Government property'' and numbered for control purposes.

(2) Administratively controlled property and other personal property susceptible to unauthorized personal use should be marked ''U.S. Government property'' and numbered for control purposes.

(b) Personal property which by its nature cannot be marked, such as stores items, metal stock, etc., is exempted from this requirement.

(c) To the extent practicable and economical, markings shall be removed prior to disposal outside of DOE, or, if removal is impractical, additional permanent markings may be added to indicate such disposal.

§ 109–1.5106 Segregation of personal property.

Ordinarily, contractor-owned personal property shall be segregated from Government personal property. Commingling of Government and contractor-owned personal property may be allowed only when:

(a) The segregation of the property would materially hinder the progress of the work (i.e., segregation is not feasible for reasons such as small quantities, lack of space, or increased costs); and

(b) Control procedures are adequate (i.e., the Government property is specifically marked or otherwise identified as Government property).

§ 109–1.5107 Physical protection of personal property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, and/or perimeter fencing shall be established as appropriate to prevent loss, theft, or unauthorized removal of property from the premises on which such personal property is located.

§ 109–1.5108 Personal property records requirements.

The contractor's property control records shall provide the following basic information for every accountable item of Government personal property in the contractor's possession and any other data elements required by specific contract provisions:

(a) Contract number or equivalent code designation.

(b) Asset type.

(c) Description of item (name, serial number, national stock number (if available)).

(d) Property control number (Government ownership identity).

(e) Unit acquisition cost (including delivery and installation cost, when appropriate, and unit of measure).

(f) Acquisition document reference and date.

(g) Manufacturer's name and model number.

(h) Quantity received, fabricated, issued or on hand.

(i) Location (physical area)

(j) Custodian name and organization code.

(k) Use status (active, storage, excess, etc.)

(l) High risk designation.

(m) Disposition document reference and date.

§ 109–1.5108–1 Capital equipment.

An individual property record will be developed and maintained for each item of capital equipment.

§ 109–1.5108–2 Sensitive items.

Individual item records will be maintained for each sensitive item. Minimum dollar value thresholds for controlling sensitive items, if used, will be determined by the OPMO for each DOE organization in consultation with appropriate management officials. This threshold may be applied organization-wide or by individual contractors or location. Identification of types of property meeting the DOE–PMR definition of sensitive property should be the primary determinant of sensitive category with dollar thresholds, if any, considered as a guideline only. Sensitive items which are also capital equipment will be controlled as both sensitive items and capital equipment.

§ 109–1.5108–3 Stores inventories.

Perpetual inventory records are to be maintained for stores inventory items.

§ 109–1.5108–4 Precious metals.

Perpetual inventory records are to be maintained for precious metals.

§ 109–1.5108–5 Administratively controlled items.

No formal property management records are required to be maintained for this category of personal property, which includes such items as those controlled for calibration or maintenance purposes, contaminated property, tool crib items, and equipment pool items. Various control records can be employed to help safeguard this property against waste and abuse, including purchase vs. use information, tool crib check-outs, loss and theft reports, calibration records, disposal records, and other similar records. Control techniques would include physical security, custodial responsibility, identification/ marking, or other locally established control techniques.

§ 109–1.5109 Control of sensitive items.

(a) A list of types of personal property considered to be sensitive shall be developed and maintained by each DOE activity/site, taking into consideration value, costs of administration, need for control, and other factors that management determines should apply.

(b) Items of capital equipment which are also designated as sensitive items will be controlled as sensitive items and as capital equipment.

(c) Written procedures shall be established for control of sensitive items and shall address:

(1) Approval of purchase requisitions or issue documents at an appropriate supervisory level;

(2) Establishment of controls in the central receiving and warehousing

department, such as extraordinary physical protection, handling, and maintenance of a current listing of sensitive items;

(3) Establishment and maintenance of appropriate records;

(4) Requirement for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;

(6) Establishment of custodial responsibilities describing:

(i) Need for extraordinary physical protection;

(ii) Requirement for effective physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances;

(iii) Requirement for prompt reporting and investigation of loss, damage or destruction; and

(iv) Requirement for promptly reporting changes in custody.

(7) Requirement for an annual physical inventory;

(8) Requirement for an employee transfer or termination check-out procedure and examination and adjustment of records;

(9) Reminder of prohibition of use for other than official purposes and penalties for misuse;

(10) A clear statement of the extent of responsibility for financial accountability depending upon contractor policy; and

(11) Other procedures which have demonstrated effective physical and administrative control over sensitive items.

§ 109–1.5110 Physical inventories of personal property.

(a) Physical inventories of those categories of personal property as specified in paragraph (f) of this section shall be conducted at all DOE and designated contractor locations.

(b) Physical inventories shall be performed by the use of personnel other than custodians of the property. Where staffing restraints or other considerations apply, the inventory may be performed by the custodian with verification by a second party.

(c) Detailed procedures for the taking of physical inventories shall be developed for each DOE office and designated contractor. The OPMO shall review and approve the DOE office and contractor procedures.

(d) The conduct of a physical inventory will be observed, or follow-on audits made, by independent representatives, e.g., finance, audit, or property personnel, to the extent deemed necessary to assure that approved procedures are being followed and results are accurate. These observations or audits shall be documented and the documentation retained in the inventory record file.

(e) Procedures that are limited to a check-off of a listing of recorded property without actual verification of the location and existence of such property do not meet the requirements of a physical inventory.

(f) The frequency of physical inventories of personal property shall be as follows:

(1) Capital equipment—biennial.

(2) Sensitive items—annual.

(3) Stores inventories—annual.

(4) Precious metals—annual.

(5) Administratively controlled items—There is no formal Department requirement for the performance of physical inventories of this property. However, OPMOs should determine such requirements based on management needs.

(g) Physical inventories shall be performed at intervals more frequently than required when experience at any given location or with any given item or items indicates that this action is necessary for effective property accounting, utilization, or control.

(h) Physical inventories of capital equipment may be conducted by the ''inventory by exception'' method. The system and procedures for taking physical inventories by this method must be fully documented and approved in writing by the OPMO.

(i) The results of physical inventories shall be reconciled with the property records, and with applicable financial control accounts.

(j) The results of physical inventories shall be reported to the OPMO within 30 days after the reconciliation required above.

(k) Physical inventories of capital equipment and stores inventories may be conducted by using statistical sampling methods in lieu of the normal wall-to-wall method. The sampling methods employed must be statistically valid and approved in writing by the OPMO. If use of the statistical methods of physical inventory does not produce acceptable results, the wall-to-wall method shall be used to complete the inventories.

§ 109–1.5111 Retirement of property.

When Government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding the wear, loss, theft, destruction, abandonment, or damage. The retirement work order shall be signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory level above the official initiating the report.

§ 109–1.5112 Loss, damage, or destruction of personal property in possession of DOE direct operations.

DOE offices shall establish procedures to provide for the reporting, documentation, and investigation of instances of loss, damage, or destruction of personal property including:

(a) Notification to appropriate DOE organizations and law enforcement offices;

(b) Determination of cause or origin;

(c) Liability and responsibility for repair or replacement; and

(d) Actions taken to prevent further loss, damage, or destruction, and to prevent repetition of similar incidents.

§ 109–1.5113 Loss, damage, or destruction of personal property in possession of designated contractors.

(a) Designated contractors shall report any loss, damage, or destruction of personal property in its possession or control, including property in the possession or control of subcontractors, to the property administrator either as soon as it becomes known.

(b) When physical inventories, consumption analyses, or other actions disclose consumption of property considered unreasonable by the property administrator; or loss, damage, or destruction of personal property not previously reported by the contractor, the property administrator shall require the contractor to investigate the incidents and submit written reports.

(c) Reports of physical inventory results and identified discrepancies shall be submitted to the property administrator within 90 days of completion of physical inventories. An acceptable percentage of shrinkage for stores inventories shall be determined by the property administrator on a location-by-location basis, based on type and cost of materials, historical data, and other site-specific factors. This determination shall be in writing and be supported by appropriate documentation.

(d) The contractor's report referenced above shall contain factual data as to the circumstances surrounding the loss, damage, destruction or excessive consumption, including:

(1) The contractor's name and contract number;

(2) A description of the property;

(3) Cost of the property, and cost of repairs in instances of damage (in event

actual cost is not known, use reasonable estimate);

(4) The date, time (if pertinent), and cause or origin; and

(5) Actions taken by the contractor to prevent further loss, damage, destruction, or unreasonable consumption, and to prevent repetition of similar incidents.

(e) The property administrator shall ensure that the corrective actions taken by the contractor under paragraph (d)(5) of this section satisfactorily address system weaknesses.

(f) The contracting officer shall make a determination of contractor liability with a copy of the determination furnished to the contractor and the property administrator. Costs may be assessed against a contractor for physical inventory discrepancies or other instances of loss of Government property within the terms of the contract. Credit should only be applied if specific items reported as lost can be uniquely identified. General physical inventory write-ons are not to be used as a credit.

(g) If part of a designated contractor's personal property management system is found to be unsatisfactory, the property administrator shall increase surveillance of that part to prevent, to the extent possible, any loss, damage, destruction or unreasonable consumption of personal property. The property administrator shall give special attention to reasonably assuring that any loss, damage, destruction or unreasonable consumption occurring during a period when a contractor's personal property management system is not approved is identified before approval or reinstatement of approval.

§ 109–1.5114 Use of non-Government-owned property.

Non-Government-owned personal property shall not be installed in, affixed to, or otherwise made a part of any Government-owned personal property when such action will adversely affect the operation or condition of the Government property.

§ 109–1.5148 Personal property management reports.

Reports to be submitted to the DPMO are listed in Table 1:

TABLE 1

Report Title	Due at DOE Headquarters	References	Form No.
(1) Report of Exempted Motor Vehicles	On request	FPMR 101–38.204–4, DOE-PMR 109–38.204–4	Letter.
(2) Precious Metals	Oct. 31	FPMR 101–45.1002–2, DOE-PMR 109–45.1002–2	Letter.
(3) Agency Report of Motor Vehicle Data	Oct. 31	FPMR 101–38.903, DOE-PMR 109–38.903	SF 82.
(4) Excess Personal Property Furnished to Non-Federal Recipients.	Nov. 15	FPMR 101–43.4701(c), DOE-PMR 109–43.4701(c)	Letter.
(5) Utilization and Disposal of Excess and Surplus Personal Property.	Nov. 15	FPMR 101–44.4701, and FPMR 101–45.4701	85–2.
(6) Negotiated Sales	Nov. 15	FPMR 101–45.4702, DOE-PMR 109–45.4702	Letter.
(7) Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority.	Nov. 30	FPMR 101–46.305, DOE-PMR 109–46.305	Letter.

Subpart 109–1.52—Personal Property Management Program for Designated Contractors

§ 109–1.5200 Scope of subpart.

This subpart prescribes policy and responsibilities for the establishment, maintenance, and appraisal of designated contractors' programs for the management of personal property.

§ 109–1.5201 Policy.

(a) Designated contractors shall establish, implement, and maintain a system that provides for an effective personal property management program. The system shall be consistent with the terms of the contract; prescribed policies, procedures, regulations, statutes, and instructions; and directions from the contracting officer.

(b) Designated contractors' personal property management systems shall not be considered acceptable until reviewed and approved in writing by the cognizant DOE contracting office in accordance with section 109–1.5205 of this subpart.

(c) Designated contractors shall maintain their personal property management systems in writing. Revisions to the systems shall be approved in writing by the cognizant DOE contracting office in accordance with section 109–1.5205 of this subpart.

(d) Designated contractors shall include their personal property management system in their management surveillance or internal review program in order to identify weaknesses and functions requiring corrective action.

(e) Designated contractors are responsible and accountable for all Government personal property in the possession of subcontractors, and shall include appropriate provisions in their subcontracts and property management systems to assure that subcontractors establish and maintain effective systems for the management of Government personal property in their possession in accordance with § 109–1.5204 of this subpart.

§ 109–1.5202 Establishment of a personal property holdings baseline.

(a) If the contractor is a new designated contractor, the contractor may accept the previous contractor's personal property records as a baseline or may perform a complete physical inventory of all personal property. This physical inventory is to be performed within the time period specified by the contracting officer or the contract, but no later than one year after the execution date of the contract. If the physical inventory is not accomplished within the allotted time frame, the previous contractor's records will be considered as the baseline.

(b) If any required physical inventories have not been accomplished within the time periods prescribed in § 109–1.5110(f) of this part, the new contractor shall either perform such physical inventories within 120 days of contract renegotiation, or accept the existing property records as the baseline.

§ 109–1.5203 Management of subcontractor-held personal property.

(a) Designated contractors shall require those subcontractors provided Government-owned personal property to establish and maintain a system for the management of such property. As a minimum, a subcontractor's personal property management system shall provide for the following:

(1) Adequate records.

(2) Controls over acquisitions.

(3) Identification as Government-owned personal property.

(4) Physical inventories.

(5) Proper care, maintenance, and protection.

(6) Controls over personal property requiring special handling (i.e., nuclear-related, proliferation-sensitive, hazardous, or contaminated property).

(7) Reporting, redistribution, and disposal of excess and surplus personal property.

(8) Accounting for personal property that is lost, damaged, destroyed, stolen, abandoned, or worn out.

(9) Periodic reports, including physical inventory results and total acquisition cost of Government property.

(10) An internal surveillance program, including periodic reviews, to ensure that personal property is being managed in accordance with established procedures.

§ 109–1.5204 Review and approval of a designated contractor's personal property management system.

(a) An initial review of a designated contractor's personal property management system shall be performed by the property administrator within one year after the execution date of the contract, except for contract extensions or renewals or when an existing contractor has been awarded a follow-on contract. The purpose of the review is to determine whether the contractor's system provides adequate protection, maintenance, utilization, and disposition of personal property, and reasonable assurance that the Department's personal property is safeguarded against waste, loss, unauthorized use, or misappropriation, in accordance with applicable statutes, regulations, contract terms and conditions, programmatic needs, and good business practices. If circumstances preclude completion of the initial review within the ''within one year'' initial review requirement, the property administrator shall request a deviation from the requirement in accordance with the provisions of § 109–1.110–50 of this part.

(b) If a designated contractor is the successor to a previous designated contractor and the contract award was based in part on the contractor's proposal to overhaul the existing personal property management system(s), the ''within one year'' initial review requirement may be extended based on:

(1) The scope of the overhaul; and

(2) An analysis of the cost to implement the overhaul within a year versus a proposed extended period.

(c) When an existing contract has been extended or renewed, or the designated contractor has been awarded a follow-on contract, an initial review of the contractor's personal property management system is not required. In such cases, the established appraisal schedule will continue to be followed as prescribed in paragraph (d) of this section.

(d) At a minimum of every three years after the date of approval of a designated contractor's property management system, the OPMO shall make an appraisal of the personal property management operation of the contractor. The purpose of the appraisal is to determine if the contractor is managing personal property in accordance with its previously approved system and procedures, and to establish whether such procedures are effective and efficient. The appraisal may be based on a formal comprehensive appraisal or a series of formal appraisals of the functional segments of the contractor's operation.

(e) A designated contractor's property management system shall be approved, conditionally approved, or disapproved in writing as specified in § 109–1.5004–5(c) of this part. When a system is conditionally approved or disapproved, the property administrator or contracting officer shall advise the contractor, in writing, of deficiencies that need to be corrected, and a time schedule established for completion of corrective actions.

(f) Appropriate follow-up will be made by the property administrator to ensure that corrective actions have been initiated and completed.

(g) When a determination has been made by the property administrator that all major system deficiencies identified in the review or appraisal have been corrected, the head of the field organization shall withdraw the conditional approval or disapproval, and approve the system with the concurrence of the OPMO. The approval shall be in writing and addressed to appropriate contractor management.

(h) The property administrator shall maintain a copy of all designated contractor personal property management system appraisals and approvals in such manner as to be readily available to investigative and external review teams.

§ 109–1.5205 Personal property management system changes.

Any proposed significant change to a designated contractor's approved personal property management system shall be reviewed by the property administrator at the earliest possible time. Such changes should then be approved in writing on an interim basis, or disapproved in writing, by the property administrator as appropriate.

Subpart 109–1.53—Management of High Risk Personal Property

§ 109–1.5300 Scope of subpart.

This subpart provides policy and guidance for the identification and responsible disposition of high risk personal property to ensure that its disposition does not adversely affect public safety, the environment, national security, or nuclear nonproliferation objectives of the United States.

§ 109–1.5301 Applicability.

This subpart is applicable to all DOE organizations which purchase, manage or dispose of Government personal property, or contract for the management of Government facilities, programs, or related services, which may directly or indirectly require the purchase, management, or disposal of Government-owned personal property. Using the high risk property control requirements in this subpart as guidance, heads of field organizations or OPMOs shall assure that designated contractors and financial assistance recipients are responsible for developing a cost effective high risk property management system, covering all operational responsibilities enumerated in this subpart.

§ 109–1.5302 Definitions.

Automatic data processing equipment means, as used in this subpart and to the extent that such equipment is used to process export controlled information or unclassified controlled nuclear information, any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

Export controlled information (ECI) means unclassified U.S. Government information under DOE cognizance that, if proposed for export by the private sector, would require a U.S. Department of Commerce or U.S. Department of State validated license or a DOE authorization for export under U.S. laws or regulations. ECI includes nuclear, nuclear-related, and other types of information which, if released, could reasonably be expected to adversely affect U.S. national security or nuclear nonproliferation objectives.

Unclassified controlled nuclear information (UCNI) means U.S. Government information pertaining to atomic energy defense activities as

defined in section 148 of the Atomic Energy Act. Such information can relate to aspects of nuclear weapons design, development, testing, physical security, production, or utilization facilities.

§ 109–1.5303 Policies.

(a) It is the responsibility of DOE organizations and designated contractors to manage and control Government-owned high risk property in an economical, efficient, and environmentally sound manner. However, to the extent that other previously approved systems are in place and the head of the field organization has determined, in writing, that they are operating effectively to manage and control certain categories of high risk property, such systems may continue to be utilized.

(b) When items of property are no longer needed by a Departmental organization or a designated contractor, it is generally the Government's policy to dispose of that property through the prescribed FPMR mechanisms for treatment of excess and surplus property.

(c) The disposition of certain types of property, such as high risk property, are subject to other considerations. Items of high risk property may present significant risks to the public, the environment, or to the national security and nuclear nonproliferation objectives of the Government which must be evaluated. It is, therefore, DOE policy to:

(1) Effectively balance its interest in maximizing value and effective utilization with the need to safeguard public safety, the environment, or the national security; and

(2) Ensure the accomplishment of nuclear nonproliferation objectives.

(d) Property management should provide for the assessment and identification of high risk property at the earliest stage of its life-cycle use unless the head of a field organization determines, in writing, that it is not cost effective or is otherwise inappropriate to do so. A decision by the head of a field organization not to provide life-cycle control should take into account:

(1) The nature and extent of high risk property typically purchased or otherwise brought to a DOE or designated contractor facility or site;

(2) The projected stability of DOE and designated contractor operations; and

(3) The degree of confidence in the property control measures available at disposition.

(e) A determination not to provide life cycle control consistent with this subpart shall be made in writing by the head of the field organization, with a copy sent to the Deputy Assistant Secretary for Procurement and Assistance Management. Property shall not be transferred or disposed of unless it has been subjected to a high risk property assessment.

§ 109–1.5304 Procedures.

(a) *Identification.* Generally, the earlier in its life cycle that an item of personal property is assessed for identification as high risk property, the greater the availability of information to assist in such identification and appropriate categorization. Accordingly, to help ensure the appropriate treatment of property at its disposal and to prevent inadvertent, uncontrolled release of high risk property, it is recommended that property be assessed and evaluated as high risk property as early in its life cycle as is practical.

(b) *Inventories.* This subpart does not require special inventories for the identification of high risk property. It is, however, required that DOE and designated contractors use the inventory process as a means to identify high risk property as early in its life cycle as possible. Inventories shall be conducted in accordance with the schedules established in this regulation, the DEAR, and the Financial Assistance Rule.

(c) *Disposition of high risk property.*—(1) *General.* (i) Prior to its disposition an item of personal property, materials or data will be assessed to determine whether it should be characterized as high risk.

(ii) The DOE or designated contractor property management organization may not process high risk property into a reutilization/disposal program unless all reviews are properly documented and all appropriate certifications and clearances have been received, in accordance with the approved site or facility personal property management program.

(2) Special requirements.

(i) Nuclear-related, proliferation-sensitive, radioactive property, hazardous property and unclassified controlled nuclear information (UCNI) shall be dispositioned in accordance with approved procedures and systems or with the prior approval of the cognizant program office. Disposition and handling of the first four categories of property are subject to applicable provisions of subchapter H in the FPMR and this regulation and UCNI is subject to section 148 of the Atomic Energy Act.

(ii) DOE organizations and designated contractors shall take measures to ensure that proliferation-sensitive or other export controlled property and information is not directly exported to countries on the DOE Sensitive Country List (Attachment 1 of the *Interim Guidelines for Export Control and Nonproliferation, dated November 3, 1994* or any subsequent amendments adopted and issued by the Department) except in accordance with Government nonproliferation and national security policy and objectives.

(iii) Surplus nuclear weapons components and equipment and materials especially designed or prepared for nuclear use as identified in the Nuclear Suppliers Group ''Trigger'' List, shall either be sold for scrap after being made useless for their originally intended purpose or shall be destroyed and verified unless an alternative disposition option appears to be in the best interest of the Government. Requests for an approval of alternative disposition may be made through the cognizant Assistant Secretary to the Director of the Office of Nonproliferation and National Security.

(iv) Automatic data processing equipment shall be sanitized before being turned in for disposition to ensure that all data, information, and software have been removed from the equipment.

(d) *Transfer documentation.* Property transfer records should include all available documentation concerning the subject property's categorization as high risk, use, and special handling instructions, including any warnings, safety instructions, and information pertaining to future disposition, as appropriate. Such documentation shall be included with all transfers external to DOE and DOE contractor organizations as well as transfers external to those organizations. Nuclear materials safeguard and security concerns shall be addressed in accordance with DOE Order 5633.3B, Control and Accountability of Nuclear Materials.

(e) *Export Restriction Notice.* The following Export Restriction Notice shall be included in all sales, transfers or other offerings:

Export Restriction Notice

The use, disposition, export and reexport of this property is subject to all applicable U.S. laws and regulations, including the Atomic Energy Act of 1954, as amended; the Arms Export Control Act (22 USC 2751 et seq.); the Export Administration Act of 1979 (560 USC Append 2401 et seq.); DOE Regulations (10 CFR part 810); International Traffic in Arms Regulations (22 CFR part 120 et seq.); Export Administration Regulations (15 CFR part 730 et seq.); Foreign Assets Control Regulations (31 CFR part 500 et seq.); and the Espionage Act (37 USC 791 et seq.) which among other things, prohibit:

a. The making of false statements and concealment of any material information regarding the use or disposition, export or reexport of the property; and

b. Any use or disposition, export or reexport of the property which is not

authorized in accordance with the provisions of this agreement.

PART 109–6—MISCELLANEOUS REGULATIONS

Subpart 109–6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

Sec.

109–6.400 Scope and applicability.
109–6.400–50 Instructions to DOE passenger carrier operators.
109–6.402 Policy.
109–6.450 Statutory provisions.

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c); 31 U.S.C. 1344(e)(1).

Subpart 109–6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

§ 109–6.400 Scope and applicability.

(a) With the exception of § 109–6.400–50, the provisions of this subpart and 41 CFR 101–6.4 do not apply to designated contractors. Official use provisions applicable to these contractors are contained in § 109–38.3 of this chapter.

(b) When an employee on temporary duty is authorized to travel by Government motor vehicle, and in the interest of the Government, is scheduled to depart before the beginning of regular working hours, or if there will be a significant savings in time, a Government motor vehicle may be issued at the close of the preceding working day. Similarly, when scheduled to return after the close of working hours, the motor vehicle may be returned the next regular working day. This use of a Government motor vehicle is not regarded as prohibited by 31 U.S.C. 1344 (25 Comp. Gen. 844).

§ 109–6.400–50 Instructions to DOE passenger carrier operators.

DOE offices shall ensure that DOE employees operating Government motor vehicles are informed concerning:

(a) The statutory requirement that Government motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of Government motor vehicles, and for compliance with Federal, state, and local laws and regulations, and all accident reporting requirements;

(c) The need to possess a valid state, District of Columbia, or commonwealth operator's license or permit for the type of vehicle to be operated and some form of agency identification;

(d) The penalties for unauthorized use of Government motor vehicles;

(e) The prohibition against providing transportation to strangers or hitchhikers;

(f) The proper care, control and use of Government credit cards;

(g) Mandatory use of seat belts by each employee operating or riding in a Government motor vehicle;

(h) The prohibition against the use of tobacco products in GSA-Interagency Fleet Management System (IFMS) motor vehicles;

(i) Any other duties and responsibilities assigned to operators with regard to the use, care, operation, and maintenance of Government motor vehicles;

(j) The potential income tax liability when they use a Government motor vehicle for transportation between residence and place of employment; and

(k) Protection for DOE employees under the Federal Tort Claims Act when acting within the scope of their employment.

§ 109–6.402 Policy.

(a) It is DOE policy that Government motor vehicles operated by DOE employees are to be used only for official Government purposes. Official use does not include use of vehicles between residence and place of employment unless provided for in accordance with paragraph (b) of this section. The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall establish appropriate controls to ensure that the use of a Government motor vehicle for transportation between an employee's residence and place of employment is in accordance with the provisions of 41 CFR 101–6.4 and this subpart.

(b) The use of Government motor vehicles between an employee's residence and place of employment is limited to:

(1) The Secretary of Energy and the Deputy Secretary of Energy; and

(2) Those persons engaged in field work as determined by the Secretary of Energy in accordance with 41 CFR 101–6.403(b) and paragraph (b) of § 109–6.403.

(c) It is DOE policy that space in a Government motor vehicle used for home-to-work transportation may be shared with a spouse, relative, or friend in accordance with the restrictions contained in 41 CFR 101–6.402(f).

§ 109–6.450 Statutory provisions.

(a) In accordance with 31 U.S.C. 1349(b), any officer or employee of the Government who willfully uses or authorizes the use of a Government passenger motor vehicle for other than official purposes shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month and shall be suspended for a longer period or summarily removed from office if circumstances warrant.

(b) Under the provisions of 18 U.S.C. 641, any person who knowingly misuses any Government property (including Government motor vehicles) may be subject to criminal prosecution and, upon conviction, to fines or imprisonment.

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 109–25—GENERAL

Subpart 109–25.1—General Policies

Sec.

109–25.100 Use of Government personal property and nonpersonal services.
109–25.103 Promotional materials, trading stamps, or bonus goods.
109–25.103–1 General.
109–25.104 Acquisition of office furniture and office machines.
109–25–109 Laboratory and research equipment.
109–25–109–1 Identification of idle equipment.
109–25–109–2 Equipment pools.

Subpart 109–25.3—Use Standards

109–25.302 Office furniture, furnishings, and equipment.
109–25.350 Furnishing of Government clothing and individual equipment.

Subpart 109–25.4—Replacement Standards

109–25.401 General.
109–25.401–50 Replacement approvals.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart 109–25.1—General Policies

§ 109–25.100 Use of Government personal property and nonpersonal services.

The Director, Office of Administrative Services and heads of field organizations shall ensure to restrict the use of Government property/services to officially designated activities.

§ 109–25.103 Promotional materials, trading stamps, or bonus goods.

§ 109–25.103–1 General.

DOE offices and designated contractors shall establish procedures for the receipt and disposition of promotional materials, trading stamps, or bonus goods consistent with the provisions of 41 CFR 101–25.103.

§ 109–25.104 Acquisition of office furniture and office machines.

DOE offices and designated contractors shall make the determination as to whether requirements can be met through the utilization of DOE owned furniture and office machines.

§ 109–25.109 Laboratory and research equipment.

The provisions of 41 CFR 101–25.109 and this section apply to laboratory and research equipment in the possession of DOE field organizations and designated contractors.

§ 109–25.109–1 Identification of idle equipment.

(a) As a minimum, management walk-throughs shall be conducted to provide for coverage of all operating and storage areas at least once every two years to identify idle and unneeded personal property. The submission to the head of the laboratory or facility of a report of walk-throughs conducted shall be at the discretion of the laboratory or facility management. However, DOE field organizations may require designated contractors to submit a report of walk-throughs to the OPMOs. Equipment identified as idle and unneeded shall be redeployed, reassigned, placed in equipment pools, or excessed, as appropriate. All walk-throughs shall be documented to include, as a minimum, identity of the participants, areas covered, findings, recommendations, corrective action plans, and results achieved. The documentation shall be made available for review by appropriate contractor management, DOE offices, and audit teams.

(b) Members of management walk-through inspection teams should be coordinated with the property administrator and the OPMO.

(c) OPMOs shall periodically review walk-through procedures and practices of DOE offices and designated contractors to determine their effectiveness.

§ 109–25.109–2 Equipment pools.

(a)—(c) [Reserved]

(d) The report on the use and effectiveness of equipment pools shall be submitted to the head of the DOE office at the discretion of that official. However, documentation of evaluations of pools shall be maintained and made available for review by appropriate contractor management, DOE offices, and audit teams.

(e) Heads of field organizations shall require periodic independent reviews of equipment pool operations.

Subpart 109–25.3—Use Standards

§ 109–25.302 Office furniture, furnishings, and equipment.

The Director, Office of Administrative Services, heads of field organizations, and designated contractors shall establish criteria for the use of office furniture, furnishings, and equipment.

§ 109–25.350 Furnishing of Government clothing and individual equipment.

(a) Government-owned clothing and individual equipment may be furnished to employees:

(1) For protection from physical injury or occupational disease; or

(2) When employees could not reasonably be required to furnish them as a part of the personal clothing and equipment needed to perform the regular duties of the position to which they are assigned or for which services were engaged.

(b) This section does not apply to uniforms or uniform allowances under the Federal Employees Uniform Allowance Act of 1954, as amended.

Subpart 109–25.4—Replacement Standards

§ 109–25.401 General.

§ 109–25.401–50 Replacement approvals.

The Director, Office of Administrative Services and heads of field organizations are authorized to approve replacement of office machines, furniture, and materials handling equipment.

PART 109–26—PROCUREMENT SOURCES AND PROGRAM

Subpart 109–26.2—Federal Requisitioning System

Sec.
109–26.203 Activity address codes.

Subpart 109–26.5—GSA Procurement Programs

109–26.501 Purchase of new motor vehicles.
109–26.501–1 General.
109–26.501–4 Submission of orders.
109–26.501–50 Authority and allocations for the acquisition of passenger motor vehicles.
109–26.501–51 Used vehicles.
109–26.501–52 Justification for purchase.
109–26.501–53 Acquisitions by transfer.
109–26.501–54 Communications equipment.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart 109–26.2—Federal Requisitioning System

§ 109–26.203 Activity address codes.

(a) DOE field organizations designated by OCMA are responsible for processing routine activity code related transactions for specified groupings of field organizations. Each field organization in a specified grouping will forward their activity address code related transactions to the grouping's lead organization for processing. Each lead organization shall designate a point of contact who will:

(1) Verify the need, purpose, and validity of each transaction; and

(2) Be the specified grouping's authorized point of contact for dealing directly with GSA.

(b) OCMA is responsible for:

(1) All policy matters related to the issuance and control of activity address codes within DOE; and

(2) Furnishing the identify of the lead field organization points of contact to GSA.

Subpart 109–26.5—GSA Procurement Programs

§ 109–26.501 Purchase of new motor vehicles.

§ 109–26.501–1 General.

(a) [Reserved]

(b) Motor vehicles may be purchased directly rather than through GSA when a waiver has been granted by GSA. The waiver request should be submitted directly to GSA and a copy forwarded to the DPMO. However, where GSA refuses to grant a waiver and it is believed that procurement through GSA would adversely affect or otherwise impair a program, the DPMO may, upon written request of the head of the DOE field organization, grant the authority for direct purchase of general purpose motor vehicles. Upon receipt of written authorization from the DPMO, the head of the field organization may authorize direct purchase of special purpose vehicles. The purchase price for passenger motor vehicles shall not exceed any statutory limitation in effect at the time the purchase is made.

§ 109–26.501–4 Submission of orders.

An original and two copies of requisitions for passenger motor vehicles and law enforcement motor vehicles shall be forwarded with justification for purchase to the DPMO, for approval and submission to GSA. Requisitions for all other types of motor vehicles shall be submitted directly to GSA.

§ 109–26.501–50 Authority and allocations for the acquisition of passenger motor vehicles.

(a) Authority for the acquisition of passenger motor vehicles is contained in the Department's annual appropriation act.

(b) DOE offices shall include in their budget submissions the number of passenger motor vehicles to be purchased during the fiscal year. The procurements will be identified as either additions to the motor vehicle fleet or replacement vehicles. A copy of the motor vehicle portion of the submission should be submitted to the DPMO.

(c) To assure that DOE does not exceed the number of passenger motor vehicles authorized to be acquired in any fiscal year, the Deputy Assistant Secretary for Procurement and Assistance Management or designee shall allocate to and inform the field organizations in writing of the number of passenger motor vehicles which may be acquired under each appropriation. These allocations and the statutory cost limitations imposed on these motor vehicles shall not be exceeded.

(d) The motor vehicle fleet manager shall provide written certification to the OPMO that disposition action has been taken on replaced passenger motor vehicles. Such certification shall be provided no later than 30 days after the disposition of the vehicle. Replaced passenger motor vehicles shall not be retained in service after receipt of the replacement vehicle.

§ 109–26.501–51 Used vehicles.

Normally, DOE does not purchase or authorize contractors to purchase used motor vehicles. However, the Director, Office of Administrative Services and heads of field organizations may authorize the purchase of used motor vehicles where justified by special circumstances, e.g., when new motor vehicles are in short supply; motor vehicles are to be used for experimental or test purposes; or motor vehicles are acquired from exchange/sale. The statutory passenger motor vehicle allocation requirements shall apply to any purchase of used passenger motor vehicles except in the case of motor vehicles to be used exclusively for experimental or test purposes.

§ 109–26.501–52 Justification for purchase.

(a) Requisitions for additions to the passenger motor vehicle fleet must contain adequate written justification of need. Such justifications shall be prepared by the motor vehicle fleet manager and approved by the OPMO, and should include:

(1) A statement as to why the present fleet size is inadequate to support requirements;

(2) Efforts made to achieve maximum use of on-hand motor vehicles through pool arrangements, shuttle buses, and taxicabs;

(3) The programmatic requirement for the motor vehicles and the impact on the program/project if the requisitions are not filled;

(4) The established DOE or local utilization objectives used to evaluate the utilization of passenger motor vehicles and whether the objectives have been approved by the OPMO; and

(5) The date of the last utilization review and the number of passenger motor vehicles which did not meet the established utilization objectives and the anticipated mileage to be achieved by the new motor vehicles.

(b) Requisitions for replacement passenger motor vehicles should include a statement that utilization, pools, shuttle buses and taxicabs have been considered by the motor vehicle fleet manager and the OPMO. Specific information on the identification, age and mileage of the motor vehicles should be included. When a passenger motor vehicle being replaced does not meet Federal replacement standards, a description of the condition of the vehicle should also be provided.

§ 109–26.501–53 Acquisitions by transfer.

(a) The acquisition of passenger motor vehicles by transfer from another Government agency or DOE organization shall be within the allocations prescribed in § 109–26.501–50 of this subpart.

(b) Passenger motor vehicles may be acquired by transfer provided they are:

(1) Considered as an addition to the motor vehicle fleet of the receiving office;

(2) Acquired for replacement purposes and an equal number of replaced motor vehicles are reported for disposal within 30 days;

(3) For temporary emergency needs exceeding three months and approved in writing by the DPMO; or

(4) For temporary emergency needs of three months or less in lieu of commercial rentals. These transfers will not count toward the allocation.

§ 109–26.501–54 Communications equipment.

Communications equipment considered to be essential for the accomplishment of security and safety responsibilities is exempt from the requirements of 41 CFR 101–26.501. The Fleet Manager shall approve the installation of communications equipment in motor vehicles.

PART 109–27—INVENTORY MANAGEMENT

Sec.

109–27.000–50 Scope of part.
109–27.000–51 Definitions.

Subpart 109–27.1—Stock Replenishment

109–27.102 Economic order quantity principle.
109–27.102–1 Applicability.
109–27.102–50 Systems contracting.
109–27.102–51 Policy.
109–27.102–52 Implementation.

Subpart 109–27.2—Management of Shelf-Life Materials

109–27.202 Applicability.

Subpart 109–27.3—Maximizing Use of Inventories

109–27.302 Applicability.

Subpart 109–27.4—Elimination of Items from Inventory

109–27.402 Applicability.

Subpart 109–27.50—Inventory Management Policies, Procedures, and Guidelines

109–27.5001 Objectives.
109–27.5002 Stores inventory turnover ratio.
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109–27.5106–5 Assistance.
109–27.5107 Recovery of silver from used hypo solution and scrap film.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

§ 109–27.000–50 Scope of part.

This part excludes atomic weapons or byproducts and source or special nuclear materials as defined in the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum in the Strategic Petroleum Reserve and the Naval Petroleum Reserves.

§ 109–27.000–51 Definitions.

As used in this part the following definitions apply:

Inventories mean stocks of stores, construction, supplies, and parts used in support of DOE programs.

Inventory management means the effective use of methods, procedures and techniques for recording, analyzing, and adjusting inventories in accordance with established policy. The following related functions are included:

(1) Providing adequate protection against misuse, theft, and misappropriation.

(2) Providing accurate analyses of quantities to determine requirements so that only minimal obsolescence losses will be encountered, while ensuring adequate inventory levels to meet program schedules.

(3) Providing adequate and accessible storage facilities and services based upon analyses of program requirements so that a minimum and economical amount of time is required to service the program.

Stock record means a device for collecting, storing, and providing historical data on recurring transactions for each line item of inventory.

Sub-store means a geographically removed part of the main store's operation conducted as a subordinate element of it and subject to the same management policies and inventory controls.

Systems contracting means a materials management purchasing technique for the purchase of general, common-use, and repetitive supply items in a particular product family. An example is office supplies, purchased from a commercial vendor, that are needed for immediate use instead of purchasing in bulk for future use, storing in warehouses, and issuing to customers by use of a requisitioning system. Systems contracting and just-in-time contracting are synonymous.

Subpart 109–27.1—Stock Replenishment

§ 109–27.102 Economic order quantity principle.

§ 109–27.102–1 Applicability.

Replenishment of inventories of stock items having recurring demands will be by use of the economic order quantity (EOQ) principle. However, when considered more suitable, designated contractors may use other generally accepted approaches to EOQ.

§ 109–27.102–50 Systems contracting.

Systems contracting may be used instead of or along with EOQ once a determination is made that such a system is feasible and cost effective, and that adequate controls are in place to ensure proper use.

§ 109–27.102–51 Policy.

Systems contracting for supply operations is a proven cost-effective approach to meeting procurement needs and may be implemented in DOE offices and designated contractors wherever significant cost savings to the Government will result. Impacts on local suppliers and small and disadvantaged business concerns should be considered in the overall business strategy.

§ 109–27.102–52 Implementation.

(a) DOE OPMOs shall establish required property management controls relative to the implementation of systems contracting.

(b) DOE offices and designated contractors operating a materials management function who have not performed an initial feasibility study for the implementation of systems contracting shall perform such a study for selected commodity groups. The study may be accomplished over a period of time, until all commodity groups have been considered. The study should address functional requirements, activity levels of commodity groups and individual items, and potential impacts on local suppliers and small and disadvantaged businesses. An industrial relations analysis on existing labor relations and union contracts may also be necessary.

(c) As required in the DEAR, DOE offices and designated contractors are required to consider the use of GSA supply sources when economically advantageous to the Government. These sources must be considered in the conduct of the feasibility study.

(d) DOE contracting offices shall evaluate the initial cost benefit studies performed by contractors to verify the savings and other benefits of systems contracting, and shall approve its implementation. In those instances where a cost benefit study has previously been performed, the DOE contracting office shall ensure that those studies have been evaluated and the approval to proceed with systems contracting has been provided to the contractor in writing.

(e) DOE offices shall periodically reevaluate systems contracting operations conducted by their office and designated contractors to ensure that required property management controls are being followed.

Subpart 109–27.2—Management of Shelf-Life Materials

§ 109–27.202 Applicability.

When considered more suitable, designated contractors may use other generally accepted approaches to the management of shelf-life materials.

Subpart 109–27.3—Maximizing Use of Inventories

§ 109–27.302 Applicability.

When considered more suitable, designated contractors may use other generally accepted approaches to maximizing use of inventories.

Subpart 109–27.4—Elimination of Items From Inventory

§ 109–27.402 Applicability.

When considered more suitable, designated contractors may use other generally accepted approaches to determine which items should be eliminated from inventory.

Subpart 109–27.50—Inventory Management Policies, Procedures, and Guidelines

§ 109–27.5001 Objectives.

Necessary inventories shall be established and maintained at reasonable levels, consistent with DOE requirements, applicable laws and regulations, and the following objectives:

(a) The maintenance of adequate stock levels through accurate analyses of quantities to determine requirements and stock replenishments so that only minimal obsolescence losses will be encountered while ensuring adequate inventory levels to meet program schedules;

(b) The protection of materials against misuse, theft, and misappropriation;

(c) The maintenance of an economical operation; and

(d) The standardization of inventories to the greatest extent practicable.

§ 109–27.5002 Stores inventory turnover ratio.

Comparison of investment in stores inventories to annual issues shall be made to assure that minimum inventories are maintained for the support of programs. This comparison may be expressed either as a turnover ratio (issues divided by dollar value of inventory) or in the average number of month's supply on hand. Turnover or number of month's supply is calculated only on current-use inventory. Performance goals, i.e., a six months investment or a turnover ratio of 2.0, shall be established for each stores using

activity. It is recognized, however, that extenuating operating circumstances may preclude the achievement of such objectives.

§ 109–27.5003 Stock control.

(a) Stock control shall be maintained on the basis of stock record accounts of inventories on hand, on order, received, issued, and disposed of, and supported by proper documents in evidence of these transactions. Stock record accounts shall be available for review and inspection.

(b) Personal property under stock control for greater than 90 days shall be maintained in stock record accounts.

§ 109–27.5004 Sub-stores.

(a) Sub-stores shall be established when necessary to expedite delivery of materials and supplies to the users, serve emergencies, provide economy in transportation, reduce shop and site stocks, and enable stores personnel to provide assistance in obtaining materials and supplies as needed.

(b) Items stored for issue in the sub-stores shall be treated as inventory items for control and reporting purposes. Stock records shall be integrated with central stock records so that the total amount on hand of any item at all locations is known.

§ 109–27.5005 Shop, bench, cupboard or site stock.

Shop, bench, cupboard or site stocks are an accumulation of small inventories of fast-moving materials at the point of use. Normally, these inventories are expensed at time of issue from controlled stores. However, when stocks of such inventories are not consumed or do not turn over in a reasonable period of time, which normally should not exceed 90 days, these items should be subject to the required physical controls and recorded in the proper inventory account.

§ 109–27.5006 Stores catalogs.

A stores catalog for customer use that lists items available from stock shall be established for each stores operation. Exceptions to this requirement are authorized where establishment of a catalog is impracticable or uneconomical because of small total value or number of items involved, or temporary need for the facility.

§ 109–27.5007 Physical inventories.

§ 109–27.5007–1 Procedures.

The following procedures shall be established for taking physical inventory of stocks subjected to quantity controls as well as those under financial control:

(a) Completion of a physical inventory not less frequently than every twelve months.

(b) Reconciliation of inventory quantities with the stock records.

(c) Preparation of a report of the physical inventory results.

§ 109–27.5007–2 Inventory adjustments.

Discrepancies between physical inventories and stock records shall be adjusted and the supporting adjustment records shall be reviewed and approved by a responsible official at least one supervisory level above the supervisor in charge of the warehouse or storage facility. Items on an adjustment report which are not within reasonable tolerances for particular items shall be thoroughly investigated before report approval. Adjustment reports shall be retained on file for inspection and review.

§ 109–27.5008 Control of drug substances and potable alcohol.

Effective procedures and practices shall provide for the management and physical security of controlled substances and potable alcohol from receipt to the point of use. Such procedures shall, as a minimum, provide for safeguarding, proper use, adequate records, and compliance with applicable laws and regulations. Controls and records of potable alcohol shall be maintained on quantities of one quart and above.

§ 109–27.5009 Control of hypodermic needles and syringes.

Effective procedures and practices shall provide for the management and physical security of hypodermic needles and syringes to prevent illegal use. Controls shall include supervisory approval for issue, storage in locked repositories, and the rendering of the items useless prior to disposal.

§ 109–27.5010 Containers returnable to vendors.

Containers furnished by vendors shall be administratively and physically controlled before and after issuance. Prompt action shall be taken to return such containers to vendors for credit after they have served their intended use.

§ 109–27.5011 Identification marking of metals and metal products.

§ 109–27.5011–1 General.

Metals and metal products shall be identified and marked in accordance with applicable Federal standards. This requirement applies to direct charges as well as to items procured for store, shop or floor stock, or for use on construction projects. Additional markings not covered by Federal standards should be used to show special properties, corrosion data, or test data as required. The preferred process is for the marking to be done in the manufacturing process, but it may be applied by suppliers when circumstances warrant.

§ 109–27.5011–2 Exception.

Exceptions to the marking requirement may be made when:

(a) It is necessary to procure small quantities from suppliers not equipped to do the marking;

(b) It would delay delivery of emergency orders; or

(c) Procurement is from DOE or other Federal agency excess.

Subpart 109–27.51—Management of Precious Metals

§ 109–27.5100 Scope of subpart.

This subpart provides policies, principles, and guidelines to be used in the management of purchased and recovered precious metals used to meet research, development, production, and other programmatic needs.

§ 109–27.5101 Definition.

Precious metals means uncommon and highly valuable metals characterized by their superior resistance to corrosion and oxidation. Included are gold, silver, and the platinum group metals—platinum, palladium, rhodium, iridium, ruthenium and osmium.

§ 109–27.5102 Policy.

DOE organizations and contractors shall establish effective procedures and practices for the administrative and physical control of precious metals in accordance with the provisions of this subpart.

§ 109–27.5103 Precious Metals Control Officer.

Each DOE organization and contractor holding precious metals shall designate in writing a Precious Metals Control Officer. This individual shall be the organization's primary point of contact concerning precious metals control and management, and shall be responsible for the following:

(a) Assuring that the organization's precious metals activities are conducted in accordance with Departmental requirements.

(b) Maintaining of an accurate list of the names of precious metals custodians.

(c) Providing instructions and training to precious metals custodians and/or users as necessary to assure compliance with regulatory responsibilities.

(d) Insuring that physical inventories are performed as required by, and in accordance with, these regulations.

(e) Witnessing physical inventories.

(f) Performing periodic unannounced inspections of a custodian's precious metals inventory and records.

(g) Conducting an annual review of precious metals holdings to determine excess quantities.

(h) Preparing and submitting of the annual forecast of anticipated withdrawals from, and returns to, the DOE precious metals pool.

(i) Conducting a program for the recovery of silver from used hypo solution and scrap film in accordance with 41 CFR 101–45.10 and 109–45.10 of this chapter.

(j) Preparing and submitting of the annual report on recovery of silver from used hypo solution and scrap film as required by § 109–45.1002–2 of this chapter.

(k) Developing and issuing current authorization lists of persons authorized by management to withdraw precious metals from stockrooms.

§ 109–27.5104 Practices and procedures.

§ 109–27.5104–1 Acquisitions.

DOE organizations and contractors shall contact the DOE Precious Metals Pool Manager to determine the availability of precious metals prior to acquisition on the open market.

§ 109–27.5104–2 Physical protection and storage.

Precious metals shall be afforded exceptional physical protection from time of receipt until disposition. Precious metals not in use shall be stored in a noncombustible combination locked repository with access limited to the designated custodian and an alternate. When there is a change in custodian or alternate having access to the repository, the combination shall be changed immediately. All combinations used for precious metals protection shall be changed at least on an annual basis.

§ 109–27.5104–3 Perpetual inventory records.

Perpetual inventory records shall be maintained as specified in Chapter V of DOE Order 534.1, Accounting.

§ 109–27.5104–4 Physical inventories.

(a) Physical inventories shall be conducted annually by custodians, and witnessed by the Precious Metals Control Officer or his designee.

(b) Precious metals not in use shall be inspected and weighed on calibrated scales. The inventoried weight and form shall be recorded on the physical inventory sheets by class of metal. Metals in use in an experimental process or contaminated metals, neither of which can be weighed, shall be listed on the physical inventory sheet as observed and/or not observed as applicable.

(c) Any obviously idle or damaged metals should be recorded during the physical inventory. Justification for further retention of idle metals shall be required from the custodian and approved one level above the custodian, or disposed of in accordance with established procedures.

(d) The dollar value of physical inventory results shall be reconciled with the financial records. All adjustments shall be supported by appropriate adjustment reports, and approved by a responsible official.

§ 109–27.5104–5 Control and issue of stock.

Precious metals in stock are metals held in a central location and later issued to individuals when authorized requests are received. The following control procedures shall be followed for such metals:

(a) Stocks shall be held to a minimum consistent with effective and economical support to programs.

(b) The name and organization number of each individual authorized to withdraw precious metals, and the type and kind of metals, shall be prominently maintained in the stockroom. This authorization shall be issued by the Precious Metals Control Officer or his designee and updated annually. Issues of metals will be made only to authorized persons.

(c) Accurate records of all receipts, issues, returns, and disposals shall be maintained in the stockroom.

(d) Receipts for metal issues and returns to stock shall be provided to users. Such receipts, signed by the authorized requesting individual and the stockroom clerk, shall list the requesting organization, type and form of metal, quantity, and date of transaction.

§ 109–27.5104–6 Control by using organization.

(a) After receipt, the using organization shall provide necessary controls for precious metals. Materials shall be stored in a non-combustible, combination locked repository at all times except for quantities at the actual point of use.

(b) Each using organization shall maintain a log showing the individual user, type and form of metal, and the time, place, and purpose of each use. The log shall be kept in a locked repository when not in use.

(c) The logs and secured locked storage facilities are subject to review by the Precious Metals Control Officer and other audit or review staffs as required.

(d) Cognizant Departmental managers are responsible for assuring that minimum quantities of precious metals are withdrawn consistent with work requirements and that quantities excess to requirements are promptly returned to the stockroom.

(e) Employee termination and transfer procedures shall include clearance for precious metals possession.

§ 109–27.5105 Management reviews and audits.

(a) Unannounced inspections of custodian's precious metals inventory and records may be conducted between scheduled inventories.

(b) DOE organizations and contractors holding precious metals shall annually review the quantity of precious metals on hand to determine if the quantity is in excess of program requirements. Precious metals which are not needed for current or foreseeable requirements shall be promptly reported to the DOE precious metals pool. The results of this annual review are to be documented and entered into the precious metals inventory records.

§ 109–27.5106 Precious metals pool.

§ 109–27.5106–1 Purpose.

The purpose of the precious metals pool is to recycle, at a minimum cost to pool participants, DOE-owned precious metals within the Department and to dispose of DOE-owned precious metals that are excess to DOE needs. However, if the pool is unable to accept any potential precious metal return, the using activity will dispose of the precious metals through the normal disposal process.

§ 109–27.5106–2 Withdrawals.

Pure metals, parts, fabricated products, catalysts, or solutions, are generally available and the DOE pool contractor can provide assistance in supplying such requirements. Metals can be shipped to any facility to fulfill fabrication requirements.

§ 109–27.5106–3 Returns.

All excess precious metals must be returned to the precious metals pool except as noted in § 109–27.5106–1 of this subpart. The pool is entirely dependent on metal returns; therefore, metal inventories should be maintained on an as-needed basis, and any excess metals must be returned to the pool for recycling. With the exception of silver, this includes precious metals in any form, including shapes, scrap, or

radioactively contaminated. Only high grade nonradioactively contaminated silver should be included. Procedures have been developed by the precious metals pool contractor for metal returns, including storing, packaging, shipping, and security.

§ 109–27.5106–4 Withdrawals/returns forecasts.

The precious metals pool contractor will request annually from each DOE field organization its long-range forecast of anticipated withdrawals from the pool and returns to the pool.

§ 109–27.5106–5 Assistance.

The precious metals pool is operated by a private firm under a contract with DOE. DOE organizations and contractors may obtain specific information (operating contractor's name, address, telephone number, and processing charges) regarding the operation of the pool by contacting the Chief, Property Management Branch, Oak Ridge Operations Office.

§ 109–27.5107 Recovery of silver from used hypo solution and scrap film.

The requirements for the recovery of silver from used hypo solution and scrap film are contained in § 109–45.1003 of this chapter.

PART 109–28—STORAGE AND DISTRIBUTION

Sec.

109–28.000–50 Policy.
109–28.000–51 Storage guidelines.

Subpart 109–28.3—Customer Supply Centers

109–28.306 Customer supply center (CSC) accounts and related controls.
109–28.306–3 Limitations on use.
109–28.306–5 Safeguards.

Subpart 109–28.50—Management of Equipment Held for Future Projects

109–28.5000 Scope of subpart.
109–28.5001 Definition.
109–28.5002 Objective.
109–28.5003 Records.
109–28.5004 Justification and review procedures.
109–28.5005 EHFFP program review.
109–28.5006 Utilization.

Subpart 109–28.51—Management of Spare Equipment

109–28.5100 Scope of subpart.
109–28.5101 Definition.
109–28.5102 Exclusions.
109–28.5103 Management policy.

Authority: 42 U.S.C. 7254.

§ 109–28.000–50 Policy.

DOE offices and designated contractors shall:

(a) Establish storage space and warehousing services for the receipt, storage, issue, safekeeping and protection of Government property;

(b) Provide storage space and warehousing services in the most economical and efficient manner consistent with program requirements; and

(c) Operate warehouses in accordance with generally accepted industrial management practices and principles.

§ 109–28.000–51 Storage guidelines.

(a) Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities.

(b) Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest.

(c) Storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property, with entrance to such areas restricted to authorized personnel only.

(d) Property in storage must be protected from fire, theft, deterioration, or destruction. In addition certain items require protection from dampness, heat, freezing, or extreme temperature changes. Other items must be stored away from light and odors, protected from vermin infestation, or stored separately because of their hazardous characteristics.

(e) Hazardous or contaminated property, including property having a history of use in an area where exposure to contaminated property may have occurred, shall not be commingled with non-contaminated property, but stored separately in accordance with instructions from the environmental, safety, and safety officials.

(f) Nuclear-related and proliferation-sensitive property shall be identified as such by use of a certification tag signed by an authorized program official (designated in writing with signature cards on file in the personal property management office). Such personal property shall not be commingled with other personal property, but stored separately in accordance with instructions from the cognizant program office.

Subpart 109–28.3—Customer Supply Centers

§ 109–28.306 Customer supply center (CSC) accounts and related controls.

§ 109–28.306–3 Limitations on use.

DOE offices and designated contractors shall establish internal controls for ensuring that the use of CSC accounts is limited to the purchase of items for official Government use.

§ 109–28.306–5 Safeguards.

DOE offices and designated contractors shall establish internal controls for ensuring that the customer access codes assigned for their accounts are properly protected.

Subpart 109–28.50—Management of Equipment Held for Future Projects

§ 109–28.5000 Scope of subpart.

This subpart provides policies, principles, and guidelines to be used in the management of equipment held for future projects.

§ 109–28.5001 Definition.

Equipment held for future projects (EHFFP) means items being retained, based on approved justifications, for a known future use, or for a potential use in planned projects.

§ 109–28.5002 Objective.

The objective of the EHFFP program is to enable DOE offices and contractors to retain equipment not in use in current programs but which has a known or potential use in future DOE programs, while providing visibility on the types and amounts of equipment so retained through review and reporting procedures. It is intended that equipment be retained where economically justifiable for retention, considering cost of maintenance, replacement, obsolescence, storage, deterioration, or future availability; made available for use by others; and promptly excessed when no longer needed.

§ 109–28.5003 Records.

Records of all EHFFP shall be maintained by the holding organization, including a listing of items with original date of classification as EHFFP; initial justifications for retaining EHFFP; rejustifications for retention; and documentation of reviews made by higher levels of management.

§ 109–28.5004 Justification and review procedures.

Procedures shall provide for the following:

(a) The original decision to classify and retain equipment as EHFFP shall be justified in writing, providing sufficient detail to support the need for retention of the equipment. This justification will cite the project for which retained, the potential use to be made of the equipment, or other reasons for retention.

(b) The validity of the initial classification EHFFP shall be reviewed

by management at a level above that of the individual making the initial determination.

(c) Retention of EHFFP must be rejustified annually to ensure that original justifications remain valid. The rejustifications will contain sufficient detail to support retention.

(d) Annual rejustifications for retention of EHFFP for longer than one year shall be reviewed at a level of management at least two levels above that of the individual making the determination to retain the EHFFP. EHFFP retained for periods longer than three years should be approved by the head of the DOE field organization.

§ 109–28.5005 EHFFP program review.

OPMOs shall conduct periodic reviews to ensure that the EHFFP program is being conducted in accordance with established procedures and this subpart. Included in the review will be proper determination of property as EHFFP, the validity of justifications for retaining EHFFP, and the inclusion of EHFFP in management walk-throughs as prescribed in § 109–25.109–1 of this subchapter.

§ 109–28.5006 Utilization.

It is DOE policy that, where practicable and consistent with program needs, EHFFP be considered as a source of supply to avoid or postpone acquisition.

Subpart 109–28.51—Management of Spare Equipment

§ 109–28.5100 Scope of subpart.

This subpart provides policy guidance to be used in the management of spare equipment.

§ 109–28.5101 Definition.

Spare equipment means items held as replacement spares for equipment in current use in DOE programs.

§ 109–28.5102 Exclusions.

The following categories of equipment will not be considered spare equipment:

(a) Equipment installed for emergency backup, e.g., an emergency power facility, or an electric motor or a pump, any of which is in place and electrically connected.

(b) Equipment items properly classified as stores inventory.

§ 109–28.5103 Management policy.

(a) Procedures shall require the maintenance of records for spare equipment, cross-referenced to the location in the facility and the engineering drawing number. The purpose for retention shall be in the records.

(b) Reviews shall be made based on technical evaluations of the continued need for the equipment. The reviews should be held biennially. In addition, individual item levels shall be reviewed when spare equipment is installed for use, the basic equipment is removed from service, or the process supported is changed.

(c) Procedures shall be established to provide for the identification and reporting of unneeded spare equipment as excess property.

PART 109–30—FEDERAL CATALOG SYSTEM

Sec.

109–30.001–50 Applicability.

Authority: 42 U.S.C. 7254.

§ 109–30.001–50 Applicability.

The provisions of 41 CFR part 101–30 do not apply to designated contractors.

SUBCHAPTER G—AVIATION, TRANSPORTATION, AND MOTOR VEHICLES

PART 109–37—GOVERNMENT AVIATION ADMINISTRATION AND COORDINATION

Sec.

109–37.000 Scope of part.

Subpart 109–37.1—Definitions

109–37.101 Definitions.

Subpart 109–37.4—Use of Government-Owned and Operated Aircraft

109–37.400 General.

Subpart 109–37.5—Federal Aviation Management Information System (FAMIS)

109–37.507 Reports.

Subpart 109–37.12—Federal Agency Aviation Safety Program

109–37.1202 Agency aviation safety responsibilities.
109–37.1207 Inspections and evaluations.
109–37.1208 Hazard reporting.
109–37.1209 Aircraft accident and incident investigation and reporting.
109–37.1213 Aircraft accident and incident database.

Subpart 109–37.50—Authority, Registration, Maintenance, and Records

109–37.5000 Pilot in command responsibility and authority.
109–37.5001 Authority required for the acquisition, hire, or borrowing of aircraft.
109–37.5002 Aircraft authorization.
109–37.5003 Management responsibility.
109–37.5004 Registration and identification.
109–37.5005 Airworthiness.
109–37.5006 Maintenance.
109–37.5007 Operation.
109–37.5008 Records.

Authority: 42 U.S.C. 7254.

§ 109–37.000 Scope of part.

This part supplements 41 CFR part 101–37, and establishes basic policies and procedures that apply to the management of aircraft operated by DOE organizations and designated contractors, excluding aircraft owned and operated by other Federal entities for DOE.

Subpart 109–37.1—Definitions

§ 109–37.101 Definitions.

Military aircraft means aircraft on loan from the Department of Defense (DOD).

Crewmember means a person(s) on board an aircraft that is essential to the accomplishment of the aircraft mission.

Senior Aviation Management Official means the person responsible for developing, promoting, monitoring, administering, coordinating, and evaluating, the Department-wide aviation personal property management program.

Subpart 109–37.4—Use of Government-Owned and Operated Aircraft

§ 109–37.400 General.

Department-wide policies, standards, procedures, guidelines, necessary staff assistance for the management of aircraft, (except for security helicopters managed by the Office of Safeguards and Security), aviation services, and general liaison with other Federal agencies are provided by the Senior Aviation Management Official.

Subpart 109–37.5—Federal Aviation Management Information System (FAMIS)

§ 109–37.507 Reports.

(a) Organizations operating aircraft shall complete and forward as appropriate the reports designated by the Senior Aviation Management Official for management and other purposes.

(b) Reports shall be submitted, as required, by the Federal Aviation Administration (FAA), the National Transportation Safety Board (NTSB), the GSA, and other responsible agencies. Heads of field organizations shall establish the requirements for other reports that may be needed for management or other purposes.

(c) Heads of field organizations shall provide the Senior Aviation Management Official with reports as changes occur for:

(1) Facilities inventories—Additions, deletions, and changes shall be submitted using GSA Form 3549, Government-Owned/Leased

Maintenance, Storage, Training, Refueling Facilities (per facility) or FAMIS file structures;

(2) Aircraft inventories—Additions, deletions, and changes shall be submitted using GSA Form 3550, Government Aircraft Inventory (per aircraft) or FAMIS file structures. Any aircraft operated or held in a non-operational status must be reported to FAMIS regardless of its ownership category; and

(3) Aviation support services cost data—This data shall be submitted using GSA Form 3554, Aircraft Contract/Rental/Charter Support Services Cost Data or FAMIS file structures, as support service agreements become effective.

(d) Heads of field organizations shall provide the Senior Aviation Management Official with reports annually for the previous fiscal year ending September 30 according to the following:

(1) On or before December 15 for contract, rental, and charter aircraft cost and utilization data. Each form or FAMIS database record shall contain only one aircraft for each type of mission performed. The data shall be submitted using GSA Form 3551, Contract/Charter/Rental Aircraft Cost and Utilization, or FAMIS file structures;

(2) On or before December 15 for Government aircraft cost and utilization data. The cost and utilization information shall be tracked by serial number and shall reflect the actual use and expenditures incurred for each individual aircraft. These reports are to be submitted using GSA Form 3552, Government Aircraft Cost and Utilization, or FAMIS file structures; and

(3) A report semi-annually on or before April 30 for the period October 1 through March 30, and on or before October 30 for the period April 1 through September 30 for senior Federal official and special category travel. These reports are to be submitted using the FAMIS file structures or GSA Form 3641, Senior Federal Travel. If no senior Federal officials or special category travelers were transported during the relevant time frame, Heads of field organizations shall submit a written response that acknowledges the reporting requirements and states that they have no travel to report. For a detailed explanation see 41 CFR 101–37.408.

Subpart 109–37.12—Federal Agency Aviation Safety Program

§ 109–37.1202 Agency aviation safety responsibilities.

The Assistant Secretary for Environment, Safety and Health is responsible for establishing the DOE aviation safety program, developing aviation safety policy and standards, and conducting overviews of the safety of aviation operations. Heads of field organizations may establish higher safety standards, criteria, and procedures when they have determined that it is necessary to assure the safety of specific operations under their jurisdiction.

§ 109–37.1207 Inspections and evaluations.

The Assistant Secretary for Environment, Safety and Health is responsible for establishing an evaluation program to determine the safety of aviation operations. Each field office manager is responsible for an independent internal evaluation program.

§ 109–37.1208 Hazard reporting.

The Assistant Secretary for Environment, Safety and Health shall establish a program for reporting and tracking aviation hazards. The Assistant Secretary also is responsible for identifying hazardous trends within the aviation program of the Department. Heads of field organizations will track and resolve hazards within their organizations.

§ 109–37.1209 Aircraft accident and incident investigation and reporting.

The Assistant Secretary for Environment, Safety and Health shall establish and maintain the DOE Aviation Incident Reporting System. All Department aviation accidents and incidents shall be reported promptly to the system by the appropriate Heads of field organizations.

§ 109–37.1213 Aircraft accident and incident database.

The Assistant Secretary for Environment, Safety and Health shall establish and maintain a database of aircraft accidents and incidents, within the DOE Aviation Incident Reporting System.

Subpart 109–37.50—Authority, Registration, Maintenance, and Records

§ 109–37.5000 Pilot in command responsibility and authority.

(a) It shall be the responsibility of the pilot in command to be aware of, and conform to, Federal Aviation Regulations and other requirements of the FAA, Department policies and directives, and the regulations and directives of other applicable authority, including those relating to use for official purposes only.

(b) The pilot in command is responsible for insuring that all necessary maintenance, repairs, and FAA inspections are accomplished for determining that the aircraft is airworthy.

(c) The pilot in command is at all times responsible for the safe operation of the aircraft and for the safety of the crew and passengers. Insofar as the loading of the aircraft, weather, mechanical, and other safety conditions are concerned, the pilot in command shall have final authority for determining whether a particular flight shall be continued or terminated and how it shall be made.

§ 109–37.5001 Authority required for the acquisition, hire, or borrowing of aircraft.

(a) Authority for the purchase of aircraft is contained in the annual appropriation act for DOE.

(b) The acquisition of aircraft by permanent transfer from another Government agency shall be considered as an addition to the DOE aircraft fleet and requires authority in the annual appropriations act.

(c) Aircraft shall not be bought, leased, or acquired by transfer or loan unless they are:

(1) Specifically authorized by the Senior Aviation Management Official pursuant to the appropriations concerned or other laws (except for temporary rentals or loans of 30 days or less); or

(2) Temporary rental or loans (30 days or less) approved by the head of the field organization.

§ 109–37.5002 Aircraft authorization.

(a) Field organizations shall submit all requests (with appropriate documentation) for new and replacement aircraft to the Senior Aviation Management Official. To assure that acquisitions do not exceed the number of aircraft authorized to be acquired in any fiscal year, the Senior Aviation Management Official shall inform DOE field organizations each fiscal year of the number of aircraft which may be acquired. These authorizations shall not be exceeded.

(b) The acquisition of specific aircraft by type shall be coordinated with the Senior Aviation Management Official to assure that the selected aircraft type can perform the mission requirements safely and meet all applicable safety standards.

§ 109–37.5003 Management responsibility.

The Senior Aviation Management Official and Head of each field organization having an aircraft operation shall establish procedures to ensure:

(a) That the acquisition of aircraft, including military aircraft, is controlled to ensure that authorizations are not exceeded;

(b) That because of the statutory limitations on the number of aircraft which DOE may acquire, replaced aircraft are removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both aircraft;

(c) That each aircraft is equipped with the appropriate avionics and accessories required by its FAA type certification, military department, or DOE field office operators manual for the type of mission intended. Aviation life support and personal protective equipment shall be provided and readily available for all occupants of aircraft to meet the applicable requirements of 14 CFR. Aircraft on flights into isolated areas shall be equipped with emergency rations and appropriate survival gear.

(d) Conformance with FAA requirements for the registration, certification, maintenance, and operation of aircraft, engines, and component equipment;

(e) Selection of qualified pilots, crewmembers, maintenance technicians, and repairmen, and the continuation of their competence commensurate with their job requirements through training and recurrent training programs;

(f) Establishment of dispatching and tracking procedures or other controls that will assure knowledge of aircraft location;

(g) Overall safe, efficient, and economical operation, maintenance, utilization, and replacement of aircraft;

(h) That cross-program utilization is encouraged and managed to obtain maximum, efficient use of assets;

(i) That contract and charter pilots are duly certified to meet all requirements and regulations established by the FAA for the particular aircraft;

(j) That chartered, leased, or rented aircraft are operated and maintained in compliance with all rules, regulations, and minimum standards of the FAA;

(k) That any charter, rental or hire of aircraft and operators shall meet the applicable requirements of 14 CFR and other requirements specified by the Senior Aviation Management Official; and

(l) That DOE-owned, leased, and borrowed aircraft are used for official purposes only and that all flight and operational personnel, including the pilots, are aware of the provisions of § 109–38.51 of this subchapter.

§ 109–37.5004 Registration and identification.

(a) Department-owned aircraft shall be registered with the FAA or other appropriate agency. The certificate of registration shall be displayed in the aircraft in accordance with FAA requirements. A similar requirement shall be included in any arrangement for the charter, rent, hire, loan, or lease of aircraft.

(b) All aircraft shall display markings as required by Federal Aviation Regulations for registered aircraft of the United States.

§ 109–37.5005 Airworthiness.

With the exception of public use aircraft being operated under special missions for the Department, all aircraft shall have a current FAA Airworthiness Certificate appropriate to the mission of the aircraft. This certificate shall be displayed in the aircraft.

§ 109–37.5006 Maintenance.

(a) Aircraft maintenance programs (for aircraft under the operational control of the Department) shall be submitted to the Senior Aviation Management Official for approval per the following:

(1) As a minimum, aircraft type certificated for nine or less passenger seats excluding any pilot seat shall be maintained in accordance with 14 CFR part 91, part 43, § 135.415, § 135.417, and § 135.421; a Departmental element may maintain an aircraft in accordance with 14 CFR 135.419.

(2) Aircraft type certificated for ten or more passenger seats excluding any pilot seat and conducting non-scheduled on-demand charter operations shall be maintained in accordance with 14 CFR 135.415, 135.417, and 135.423 through 135.443.

(3) Aircraft type certificated for ten or more passenger seats excluding any pilot seat and conducting scheduled air carrier operations shall be maintained in accordance with 14 CFR part 121, subpart L and subpart V.

(4) Aircraft type certificated for twenty or more passenger seats excluding any pilot seat or having a maximum payload capacity of 6,000 pounds or more when common carriage is not involved or operations not certificated under 14 CFR parts 121, 129, 135, or 137 shall be maintained in accordance with 14 CFR part 125, subpart G and L, and appendix A.

(b) Rotorcraft operations conducted under 14 CFR part 133 shall comply with the airworthiness requirements of Title 14 CFR parts 43, 91, and 133.

(c) Organizations having maintenance facilities located at a DOE facility or conducting contracted maintenance/inspection operations shall adhere to 14 CFR part 145 or 14 CFR part 121, subpart L and subpart V.

§ 109–37.5007 Operation.

(a) Flight operations must comply with Federal Aviation Regulations, DOE orders, and directives. The pilot in command is responsible for ensuring that flight operations are conducted in accordance with the regulations, orders, and directives, and is directly responsible for and is the final authority as to the operation of an aircraft.

(b) In an in-flight emergency requiring immediate action, the pilot in command may deviate from any regulation, order, or directive to the extent required to meet that emergency.

(c) Each pilot in command who deviates from a regulation, order, or directive shall send a written report of that deviation to the Senior Aviation Management Official within 72 hours of the event, excluding holidays or weekends.

§ 109–37.5008 Records.

As a minimum, flight, aircraft, engine logs records, and training records shall be maintained in accordance with FAA requirements, and records of operations, maintenance, and costs shall be maintained as required for management, budgetary, and reporting purposes. Heads of field organizations shall establish requirements for other records needed.

PART 109–38—MOTOR EQUIPMENT MANAGEMENT

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Authority: 42 U.S.C. 7254.

PART 109–38—MOTOR EQUIPMENT MANAGEMENT

§ 109–38.000 Scope of part.

§ 109–38.000–50 Policy.

Motor vehicles and watercraft shall be acquired, maintained, and utilized in support of DOE programs in the minimum quantity required and in the most practical and economical manner consistent with program requirements, safety considerations, fuel economy, and applicable laws and regulations.

Subpart 109–38.0—Definition of Terms

§ 109–38.001 Definitions.

Experimental vehicles means vehicles acquired solely for testing and research purposes or otherwise designated for experimental purposes. Such vehicles are to be the object of testing and research as differentiated from those used as vehicular support to testing and research. Experimental vehicles are not to be used for passenger carrying services unless required as part of a testing/evaluation program, and they are not subject to statutory price limitations or authorization limitations.

Motor equipment means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and maintenance equipment, materials handling equipment, and watercraft.

Motor vehicle means any equipment, self-propelled or drawn by mechanical power, designed to be operated principally on highways in the transportation of property or passengers.

Special purpose vehicles means vehicles which are used or designed for specialized functions. These vehicles include, but are not limited to: trailers, semi-trailers, other types of trailing equipment; trucks with permanently mounted equipment (such as aerial ladders); construction and other types of equipment set forth in Federal Supply Classification Group (FSCG) 38; material handling equipment set forth in FSCG 39; and fire fighting equipment set forth in FSCG 42. For reporting purposes within DOE, motorcycles and motor scooters will also be reported as special purpose vehicles.

Subpart 109–38.1—Fuel Efficient Motor Vehicles

§ 109–38.104 Fuel efficient passenger automobiles and light trucks.

(a) [Reserved]

(b) All requests to purchase passenger automobiles larger than class IA, IB, or II (small, subcompact, or compact) shall be forwarded with justification to the DPMO for approval and certification for compliance with the fuel economy objectives listed in 41 CFR 101–38.104.

(b)(1)–(b)(4) [Reserved]

(5) Requests to exempt certain light trucks from the fleet average fuel economy calculations shall be forwarded with justification to the DPMO for approval.

§ 109–38.105 Agency purchase and lease of motor vehicles.

(a) DOE activities shall submit a copy of all motor vehicle leases and purchases not procured through the GSA Automotive Commodity Center to GSA.

(b)–(c) [Reserved]

(d) DOE activities desiring to renew a commercial lease shall submit the requirement in writing to the DPMO for approval prior to submission by field offices to GSA.

(e) DOE activities shall submit a copy of all lease agreements to GSA.

§ 109–38.106 Leasing of motor vehicles.

(a) All new requirements for leased motor vehicles for 60 consecutive days or more shall be submitted with justification to the DPMO for approval.

Subpart 109–38.2—Registration, Identification, and Exemptions

§ 109–38.200 General requirements.

(a)–(e) [Reserved]

(f) Requests made pursuant to 41 CFR 101–38.200(f) for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles, except for those vehicles exempted in accordance with section 109–38.204–1 of this subpart, shall be submitted through normal administrative channels to the DPMO for approval. Each approved exemption must be renewed annually, and the DPMO shall be notified promptly when the need for a previously authorized exemption no longer exists. Copies of certifications and cancellation notices required to be furnished to GSA pursuant to 41 CFR 101–38.200(f) will be transmitted to GSA by the DPMO.

(g) Requests for temporary removal and substitution of Government markings shall be submitted with justification to the DPMO for review and approval. Copies of the determination and justification required to be furnished to GSA will be transmitted to GSA by the DPMO.

§ 109–38.201 Registration and inspection.

§ 109–38.201–50 Registration in foreign countries.

Motor vehicles used in foreign countries are to be registered and carry license tags in accordance with the existing motor vehicle regulations of the country concerned. The person responsible for a motor vehicle in a foreign country shall make inquiry at the United States Embassy, Legation, or Consulate concerning the regulations that apply to registration, licensing, and operation of motor vehicles and shall be guided accordingly.

§ 109–38.202 Tags.

§ 109–38.202–2 Outside the District of Columbia.

The Director of Administrative Services and heads of field organizations shall make the determination concerning the use of tags outside the District of Columbia.

§ 109–38.202–3 Records.

(a) The DPMO assigns ''blocks'' of U.S. Government license tag numbers to DOE organizations and maintains a current record of such assignments. Additional ''blocks'' will be assigned upon request.

(b) Each DOE direct operation and designated contractor shall maintain a current record of individual assignments of license tags to the motor vehicles under their jurisdiction.

§ 109–38.202–50 Security.

Unissued license tags shall be stored in a locked drawer, cabinet, or storage area with restricted access to prevent possible fraud or misuse. Tags which are damaged or unusable will be safeguarded until destroyed.

§ 109–38.203 Agency identification.

Standard DOE motor vehicle window decals (DOE Form 1530.1), and door decals to be used only on vehicles without windows (DOE Form 1530.2), are available from the Office of Administrative Services, Logistics Management Division, Headquarters, using DOE Form 4250.2, ''Requisition for Supplies, Equipment or Services'', or as directed by that office.

§ 109–38.204 Exemptions.

§ 109–38.204–1 Unlimited exemptions.

(a)–(f) [Reserved]

(g) The Director, Office of Administrative Services and heads of field organizations for their respective organizations may approve exemptions from the requirement for the display of U.S. Government license tags and other official identification for motor vehicles used for security or investigative purposes.

§ 109–38.204–3 Requests for exempted motor vehicles in the District of Columbia.

The Director, Office of Administrative Services is designated to approve requests for regular District of Columbia license tags, and furnishes annually the name and specimen signature of each representative authorized to approve such requests to the District of Columbia Department of Transportation.

§ 109–38.204–4 Report of exempted motor vehicles.

DOE offices shall provide upon request the necessary information to the DPMO to enable that office to submit a report of exempted vehicles.

§ 109–38.204–50 Records of exempted motor vehicles.

The Director, Office of Administrative Services and heads of field organizations shall maintain records of motor vehicles exempted from displaying U.S. Government license tags and other identification. The records shall contain a listing, by type, of each exempted motor vehicle operated during the previous fiscal year, giving information for each motor vehicle on hand at the beginning of the year and each of those newly authorized during the year, including:

(a) Name and title of authorizing official (including any authorization by Headquarters and GSA);

(b) Date exemption was authorized;

(c) Justification for exemption and limitation on use of the exempted motor vehicle;

(d) Date of discontinuance for any exemption discontinued during the year; and

(e) Probable duration of exemptions for motor vehicles continuing in use.

Subpart 109–38.3—Official Use of Government Motor Vehicles

§ 109–38.300 Scope.

This subpart prescribes the requirements governing the use of Government motor vehicles for official purposes by designated contractors.

§ 109–38.301 Authorized use.

The use of Government motor vehicles by officers and employees of the Government is governed by the provisions of 41 CFR 101–6.4 and 109–6.4 of this chapter.

§ 109–38.301–1 Contractors' use.

Heads of field organizations shall ensure that provisions of the FPMR concerning contractor use of Government motor vehicles are complied with by their designated contractors.

§ 109–38.301–1.50 Authorization for transportation between residence and place of employment.

(a) Government motor vehicles shall not be used for transportation between residence and place of employment by designated contractor personnel except under extenuating circumstances specifically provided for under the terms of the contract. Examples of circumstances eligible for prior approval of home-to-work motor vehicle use which would be appropriate to include in the terms of the contract: use related to safety or security operations, use related to compelling operational considerations, and use determined as cost effective to DOE's interest. Under no circumstances shall the comfort and convenience, or managerial position, of contractor employees be considered justification for authorization of use.

(b) The use of Government motor vehicles for transportation between residence and place of employment (including sporadic use) by designated contractor personnel shall be approved in writing by the Head of the field organization or designee, with delegation no lower than the Assistant Manager for Administration at the Operations Offices or the equivalent position at other DOE contracting activities provided that the individual is a warranted contracting officer. The contractor's request for approval shall include the name and title of the employee, the reason for the use, and the expected duration of the use. Each authorization is limited to one year, but can be extended for an unlimited number of additional one-year periods.

§ 109–38.301–1.51 Emergency use.

(a) Procedures for authorization of designated contractor use of Government motor vehicles in emergencies, including unscheduled overtime situations at remote sites where prior approval is not possible, shall be included in a contractor's approved property management procedures. The procedures shall include examples of emergency situations warranting such use. Records detailing instances of emergency use shall be maintained and review of all such emergency or overtime use must be certified through established audit procedures on at least an annual basis by the OPMO.

(b) In limiting the use of Government motor vehicles to official purposes, it is not intended to preclude their use in emergencies threatening loss of life or property. Such use shall be documented

and the documentation retained for three years.

§ 109–38.301–1.52 Maintenance of records.

Designated contractors shall maintain logs or other records on the use of a Government motor vehicle for transportation between an employee's residence and place of employment. As a minimum, these logs shall indicate the employee's name, date of use, time of departure and arrival, miles driven, and names of other passengers. Cognizant finance offices shall be provided with applicable data on employees who utilize Government motor vehicles for such transportation for purposes of the Deficit Reduction Act of 1984 concerning the taxation of fringe benefits.

§ 109–38.301–1.53 Responsibilities of motor vehicle operators.

Designated contractors shall assure that their employees are aware of their responsibilities, identical to those listed in § 109–6.400–50 of this chapter for DOE employees, concerning the use and operation of Government motor vehicles.

Subpart 109–38.4—Use and Replacement Standards

§ 109–38.401 Use standards.

§ 109–38.401–2 Use of self-service pumps.

It is DOE policy that motor vehicle operators shall use self-service pumps in accordance with the provisions of 41 CFR 101–38.401–2.

§ 109–38.402 Replacement standards.

(a) [Reserved]

(b) Motor vehicles may be replaced without regard to the replacement standards in 41 CFR 101–38.402 only after certification by the Director of Administrative Services or the Head of the field organization for their respective organizations that a motor vehicle is beyond economical repair due to accident damage or wear caused by abnormal operating conditions.

§ 109–38.402–50 Prompt disposal of replaced motor vehicles.

A replaced motor vehicle shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement motor vehicle to avoid concurrent operation of both motor vehicles.

§ 109–38.403 Responsibility for damages.

§ 109–38.403–1 Policy.

The policy for assigning responsibility for vehicle damage is to recover from users the costs for damages which would adversely affect the vehicle's resale.

§ 109–38.403–2 Responsibility.

The designated contractor will charge the using organization all costs resulting from damage, including vandalism, theft and parking lot damage to a DOE vehicle which occurs during the period that the vehicle is assigned to an employee of that organization. The charges recovered by the designated maintenance operation will be used to repair the vehicle. Other examples for which organizations will be charged are as follows:

(a) Damage caused by misuse or abuse inconsistent with normal operation and local conditions: or

(b) Repair costs which are incurred as a result of user's failure to obtain required preventative maintenance; or

(c) Unauthorized purchases or repairs, including credit card misuse, provided this is a clear, flagrant, and documented pattern of such occurrences.

§ 109–38.403–3 Exceptions.

Exceptions to § 109–38.403–2 of this subpart are as follows:

(a) As the result of the negligent or willful act of a party other than the organization or it's employee, and the responsible party can be determined; or

(b) As a result of mechanical failure and the employee was not otherwise negligent. Proof if the failure must be provided; or

(c) As a result of normal wear comparable to similar vehicles.

Subpart 109–38.5—Scheduled Maintenance

§ 109–38.502 Guidelines.

§ 109–38.502–50 DOE guidelines.

(a) Whenever practicable and cost effective, commercial service facilities shall be utilized for the maintenance of motor vehicles.

(b) Individual vehicle maintenance records shall be kept to provide records of past repairs, as a control against unnecessary repairs and excessive maintenance, and as an aid in determining the most economical time for replacement.

(c) One-time maintenance and repair limitations shall be established by the motor equipment fleet manager. To exceed repair limitations, approval of the motor equipment fleet manager is required.

(d) Warranties.

(1) Motor vehicles under manufacturer's warranty shall be repaired under the terms of the warranty.

(2) When motor vehicles are maintained in Government repair facilities in isolated locations that are distant from franchised dealer facilities, or when it is not practical to return the vehicles to a dealer, a billback agreement shall be sought from manufacturers to permit warranty work to be performed on a reimbursable basis.

Subpart 109–38.7—Transfer, Storage, and Disposal of Motor Vehicles

§ 109–38.701 Transfer of title for Government-owned motor vehicles.

§ 109–38.701–50 Authority to sign Standard Form 97, The United States Government Certificate to Obtain Title to a Vehicle.

The Standard Form (SF) 97 shall be signed by an appropriate contracting officer. The Director, Office of Administrative Services and heads of field organizations for their respective organizations may delegate the authority to sign SF 97 to responsible DOE personnel under their jurisdiction.

Subpart 109–38.8—Standard Form 149, U.S. Government National Credit Card

§ 109–38.800 General.

(a)–(c) [Reserved]

(d) The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall be responsible for establishing procedures to provide for the administrative control of fleet credit cards. Administrative control shall include, as a minimum:

(1) A reconciliation of on-hand credit cards with the inventory list provided by GSA,

(2) Providing motor vehicle operators with appropriate instructions regarding the use and protection of credit cards against theft and misuse,

(3) The taking of reasonable precautions in the event an SF 149 or SF 149A is lost or stolen to minimize the opportunity of purchases being made by unauthorized persons, including notification to the paying office of the loss or theft,

(4) Validation of credit card charges to ensure they are for official use only items, and

(5) Being on the alert for any unauthorized bills.

§ 109–38.801 Obtaining SF 149, U.S. Government National Credit Card.

DOE offices electing to use national credit cards shall request the assignment of billing address code numbers from the DPMO. Following the assignment, DOE organizations shall submit orders for issuance of national credit cards in accordance with the instructions provided by GSA.

Subpart 109–38.9—Federal Motor Vehicle Fleet Report

§ 109–38.902 Records.

The Director, Office of Administrative Services and OPMOs for their respective organizations shall establish adequate records for accounting and reporting purposes.

§ 109–38.903 Reporting of data.

§ 109–38.903–50 Reporting DOE motor vehicle data.

(a) DOE offices and designated contractors operating DOE-owned or commercially-leased motor vehicles shall prepare the following reports using SF 82, Agency Report of Motor Vehicle Data or DOE approved equivalent, for the entire fleet including security vehicles.

(1) DOE Report of Motor Vehicle Data.

(2) DOE Report of Truck Data.

(b) Designated contractors shall submit the reports to the DOE contracting office for review and approval. DOE offices shall submit reports, including designated contractor reports, to the DPMO by November 15 of each year.

(c) Copies of the report forms may be obtained by contacting the DPMO.

(d) Personal computer generated reports are acceptable provided that the standard report format is followed.

Subpart 109–38.51—Utilization of Motor Equipment

§ 109–38.5100 Scope of subpart.

This subpart prescribes policies and procedures concerning the utilization of motor equipment.

§ 109–38.5101 Policy.

It is DOE policy to keep the number of motor vehicles and other motor equipment at the minimum needed to satisfy programmatic requirements. To attain this goal, controls and practices shall be established which will achieve the most practical and economical utilization of motor equipment. These controls and practices apply to all DOE-owned and commercially leased motor equipment and to GSA Interagency Fleet Management System motor vehicles.

§ 109–38.5102 Utilization controls and practices.

Controls and practices to be used by DOE organizations and designated contractors for achieving maximum economical utilization of motor equipment shall include, but not be limited to:

(a) The maximum use of motor equipment pools, taxicabs, shuttle buses, or other common service arrangements;

(b) The minimum, practicable assignment of motor equipment to individuals, groups, or specific organizational components;

(c) The maintenance of individual motor equipment use records, such as trip tickets or vehicle logs, or hours of use, as appropriate, showing sufficiently detailed information to evaluate appropriateness of assignment and adequacy of use being made. If one-time use of a motor vehicle is involved, such as assignments from motor pools, the individual's trip records must, as a minimum, identify the motor vehicle and show the name of the operator, dates, destination, time of departure and return, and mileage;

(d) The rotation of motor vehicles between high and low mileage assignments where practicable to maintain the fleet in the best overall replacement age and mileage balance and operating economy;

(e) The charging, if considered feasible, to the user organization for the cost of operating and maintaining motor vehicles assigned to groups or organizational components. These charge-back costs should include all direct and indirect costs of the motor vehicle fleet operation as determined by the field organization and contractor finance and accounting functions;

(f) The use of dual-purpose motor vehicles capable of hauling both personnel and light cargo whenever appropriate to avoid the need for two motor vehicles when one can serve both purposes. However, truck-type or van vehicles shall not be acquired for passenger use merely to avoid statutory limitations on the number of passenger motor vehicles which may be acquired;

(g) The use of motor scooters and motorcycles in place of higher cost motor vehicles for certain applications within plant areas, such as mail and messenger service and small parts and tool delivery. Their advantage, however, should be weighed carefully from the standpoint of overall economy (comparison with cost for other types of motor vehicles) and increased safety hazards, particularly when mingled with other motor vehicle traffic; and

(h) The use of electric vehicles for certain applications. The use of these vehicles is encouraged wherever it is feasible to use them to further the goal of fuel conservation.

§ 109–38.5103 Motor vehicle utilization standards.

(a) The following average utilization standards are established for DOE as objectives for those motor vehicles operated generally for those purposes for which acquired:

(1) Sedans and station wagons, general purpose use—12,000 miles per year.

(2) Light trucks (4x2's) and general purpose vehicles, one ton and under (less than 12,500 GVWR)—10,000 miles per year.

(3) Medium trucks and general purpose vehicles, 1½ ton through 2½ ton (12,500 to 23,999 GVWR)—7,500 miles per year.

(4) Heavy trucks and general purpose vehicles, three ton and over (24,000 GVWR and over)—7,500 miles per year.

(5) Truck tractors—10,000 miles per year.

(6) All-wheel-drive vehicles—7,500 miles per year.

(7) Other motor vehicles—No utilization standards are established for other trucks, ambulances, buses, law enforcement motor vehicles, and special purpose vehicles. The use of these motor vehicles shall be reviewed at least annually by the motor equipment fleet manager and action shall be taken and documented to verify that the motor vehicles are required to meet programmatic, health, safety, or security requirements.

(b) When operating circumstances prevent the above motor vehicle utilization standards from being met, local use objectives must be established and met as prescribed in § 109–38.5105 of this subpart.

§ 109–38.5104 Other motor equipment utilization standards.

No utilization standards are established for motor equipment other than motor vehicles. Each DOE office should establish through an agreement between the fleet manager and the OPMO utilization criteria for other motor equipment including heavy mobile equipment and review, adjust, and approve such criteria annually. Utilization of various classifications of other motor equipment can be measured through various statistics including miles, hours of use, number of trips, and fuel consumption. A utilization review of other motor equipment shall be performed at least annually by the motor equipment fleet manager to justify retainment or disposition of excess equipment not needed to fulfill Departmental, programmatic, health, safety, or security requirements.

§ 109–38.5105 Motor vehicle local use objectives.

(a) Individual motor vehicle utilization cannot always be measured or evaluated strictly on the basis of miles operated or against any Department-wide mileage standard. For example, light trucks specifically fitted

for use by a plumber, welder, etc., in the performance of daily work assignments, would have uniquely tailored use objectives, different from those set forth for a truck used for general purposes. Accordingly, efficient and cost effective local use objectives, which represent practical units of measurement for motor vehicle utilization and for planning and evaluating future motor vehicle requirements, must be established and documented by the Organizational Motor Equipment Fleet Manager. The objectives should take into consideration past performance, future requirements, geographical disbursement, and special operating requirements.

(b) These objectives shall be reviewed and adjusted as appropriate, but not less often than annually, by the motor equipment fleet manager. The reviews shall be documented. The Organizational Motor Equipment Fleet Manager is responsible for reviewing and approving in writing all proposed local use objectives.

§ 109–38.5106 Application of motor vehicle use goals.

(a) At least annually, the motor equipment fleet manager will review motor vehicle utilization statistics and all motor vehicles failing to meet the applicable DOE utilization standard or local use objective must be identified.

(b) Prompt action must be initiated to:

(1) Reassign the underutilized motor vehicles;

(2) Dispose of the underutilized motor vehicles; or

(3) Obtain a special justification from users documenting their continued requirement for the motor vehicle and any proposed actions to improve utilization. Any requirement for underutilized motor vehicles which the motor equipment fleet manager proposes to continue in its assignment, must be submitted in writing to the Organizational Motor Equipment Fleet Manager for approval.

(c) Both Department-wide standards and local use objectives should be applied in such a manner that their application does not stimulate motor vehicle use for the purpose of meeting the objective. The ultimate standard against which motor vehicle use must be measured is that the minimum number of motor vehicles will be retained to satisfy program requirements.

Subpart 109–38.52—Watercraft

§ 109–38.5200 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of watercraft operated by DOE organizations and designated contractors. The head of each Departmental organization operating watercraft shall issue such supplemental instructions as may be needed to ensure the effective and efficient use and management of watercraft.

§ 109–38.5201 Definition.

As used in this subpart the following definition applies:

Watercraft means any vessel used to transport persons or material on water.

§ 109–38.5202 Watercraft operations.

(a) No person may operate a watercraft on a waterway until skill of operation and basic watercraft knowledge have been demonstrated.

(b) Operators of watercraft shall check the vessel to ensure that necessary equipment required by laws applicable to the area of operation are present, properly stowed, and in proper working order.

(c) Operators shall comply with all applicable Federal, state, and local laws pertaining to the operation of watercraft.

(d) Operators shall not use watercraft or carry passengers except in the performance of official Departmental assignments.

§ 109–38.5203 Watercraft identification and numbers.

Watercraft in the custody of DOE or designated contractors shall display identifying numbers, whether issued by the U.S. Coast Guard, State, or local field organization, in accordance with applicable requirements.

PART 109–39—INTERAGENCY FLEET MANAGEMENT SYSTEMS

Subpart 109–39.1—Establishment, Modification, and Discontinuance of Interagency Fleet Management Systems

Sec.

109–39.101 Notice of intention to begin a study.
109–39.101–1 Agency cooperation.
109–39.103 Agency appeals.
109–39.105 Discontinuance or curtailment of service.
109–39.105–2 Agency requests to withdraw participation.
109–39.106 Unlimited exemptions.
109–39.107 Limited exemptions.

Subpart 109–39.3—Use and Care of GSA Interagency Fleet Management System Vehicles

109–39.300 General.
109–39.301 Utilization guidelines.

Authority: 42 U.S.C. 7254.

Subpart 109–39.1—Establishment, Modification, and Discontinuance of Interagency Fleet Management Systems

§ 109–39.101 Notice of intention to begin a study.

§ 109–39.101–1 Agency cooperation.

The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall designate representatives to coordinate with GSA concerning the establishment of a GSA fleet management system to serve their organization.

§ 109–39.103 Agency appeals.

The Director, Office of Administrative Services and heads of field organizations for their respective organizations may appeal, or request exemption from, a determination made by GSA concerning the establishment of a fleet management system. A copy of the appeal or request shall be forwarded to the DPMO.

§ 109–39.105 Discontinuance or curtailment of service.

§ 109–39.105–2 Agency requests to withdraw participation.

Should circumstances arise that would tend to justify discontinuance or curtailment of participation by a DOE organization of a given interagency fleet management system, the participating organization should forward complete details to the DPMO for consideration and possible referral to the Administrator of General Services.

§ 109–39.106 Unlimited exemptions.

The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall make the determination that an unlimited exemption from inclusion of a motor vehicle in a fleet management system is warranted. A copy of the determination shall be forwarded to GSA and to the DPMO.

§ 109–39.107 Limited exemptions.

The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall seek limited exemptions from the fleet management system.

Subpart 109–39.3—Use and Care of GSA Interagency Fleet Management System Vehicles

§ 109–39.300 General.

(a)–(c) [Reserved]

(d) Motor equipment fleet managers shall ensure that operators and passengers in GSA Interagency Fleet Management System (IFMS) motor vehicles are aware of the prohibition against the use of tobacco products in these vehicles.

109–39.301 Utilization guidelines.

DOE activities utilizing GSA IFMS motor vehicles will receive and review vehicle utilization statistics in order to determine if miles traveled justify vehicle inventory levels. Activities should retain justification for the retention of vehicles not meeting DOE utilization guidelines or established local use objectives, as appropriate. Those vehicles not justified for retention shall be returned to the issuing GSA interagency fleet management center.

PART 109–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Subpart 109–40.1—General Provisions

Sec.

109–40.000 Scope of part.
109–40.000–50 Applicability to contractors.
109–40.102 Representation before regulatory bodies.
109–40.103 Selection of carriers.
109–40.103–1 Domestic transportation.
109–40.103–2 Disqualification and suspension of carriers.
109–40.103–3 International transportation.
109–40.104 Use of Government-owned transportation equipment.
109–40.109 Utilization of special contracts and agreements.
109–40.110 Assistance to economically disadvantaged transportation businesses.
109–40.110–1 Small business assistance.
109–40.110–2 Minority business enterprises.
109–40.112 Transportation factors in the location of Government facilities.
109–40.113 Insurance against transportation hazards.

Subpart 109–40.3—Traffic Management

109–40.301 Traffic management functions administration.
109–40.302 Standard routing principle.
109–40.303–3 Most fuel efficient carrier/mode.
109–40.304 Rate tenders to the Government.
109–40.305–50 Negotiations involving national security.
109–40.306–1 Recommended rate tender format.
109–40.306–2 Required shipping documents and annotations.
109–40.306–3 Distribution.

Subpart 109–40.50—Bills of Lading

109–40.5000 Scope of subpart.
109–40.5001 Policy.
109–40.5002 Applicability.
109–40.5003 Commercial bills of lading.
109–40.5004 Government bills of lading.
109–40.5005 Description of property for shipment.

Subpart 109–40.51—Price-Anderson Coverage Certifications for Nuclear Shipments

109–40.5100 Scope of subpart.
109–40.5101 Policy.

Authority: Sec. 161, as amended, 68 Stat. 948; 42 U.S.C. 2201; sec. 205, as amended, 63 Stat. 390; 40 U.S.C. 486; sec. 644, 91 Stat. 585, 42 U.S.C. 7254.

Subpart 109–40.1—General Provision

§ 109–40.000 Scope of part.

This part describes DOE regulations governing transportation and traffic management activities. It also covers arrangements for transportation and related services by bill of lading. These regulations are designed to ensure that all transportation and traffic management activities will be carried out in the manner most advantageous to the Government in terms of economy, efficiency, service, environment, safety and security.

§ 109–40.000–50 Applicability to contractors.

DOE–PMR 109–40, Transportation and Traffic Management, should be applied to cost-type contractors' transportation and traffic management activities. Departure by cost-type contractors from the provisions of these regulations may be authorized by the contracting officer provided the practices and procedures followed are consistent with the basic policy objectives in these regulations and DOE Order 460.2, Departmental Materials Transportation and Packaging Management, except to the extent such departure is prohibited by statute or executive order.

§ 109–40.102 Representation before regulatory bodies.

Participation in proceedings related to carrier applications to regulatory bodies for temporary or permanent authority to operate in specified geographical locations shall be confined to statements or testimony in support of a need for service and shall not extend to support of individual carriers or groups of carriers.

§ 109–40.103 Selection of carriers.

§ 109–40.103–1 Domestic transportation.

(a) Preferential treatment, normally, shall not be accorded to any mode of transportation (motor, rail, air, water) or to any particular carrier when arranging for domestic transportation services. However where, for valid reasons, a particular mode of transportation or a particular carrier within that mode must be used to meet specific program requirements and/or limitations, only that mode or carrier shall be considered. Examples of valid reasons for considering only a particular mode or carrier are:

(1) Where only a certain mode of transportation or individual carrier is able to provide the needed service or is able to meet the required delivery date; and

(2) Where the consignee's installation and related facilities preclude or are not conducive to service by all modes of transportation.

(b) The following factors are considered in determining whether a carrier or mode of transportation can meet DOE's transportation service requirements for each individual shipment:

(1) Availability and suitability of carrier equipment;

(2) Carrier terminal facilities at origin and destination;

(3) Pickup and delivery service, if required;

(4) Availability of required or accessorial and special services, if needed;

(5) Estimated time in transit;

(6) Record of past performance of the carrier; and

(7) Availability and suitability of transit privileges.

§ 109–40.103–2 Disqualification and suspension of carriers.

Disqualification and suspension are measures which exclude carriers from participation, for temporary periods of time, in DOE traffic. To ensure that the Government derives the benefits of full and free competition of interested carriers, disqualification and suspension shall not apply for any period of time longer than necessary to protect the interests of the Government.

§ 109–40.103–3 International transportation.

See 4 CFR 52.2 for a certificate required in nonuse of U.S. flag vessels or U.S. flag certificated air carriers.

(a) U.S.-flag ocean carriers. Arrangements for international ocean transportation services shall be made in accordance with the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241(b)) concerning the use of privately owned U.S.-flag vessels.

(b) U.S.-flag certificated air carriers. Arrangements for international air transportation services shall be made in accordance with the provisions of section 5(a) of the International Air Transportation Fair Competition Practices Act of 1974 (49 U.S.C. 1517), which requires the use of U.S.-flag certificated air carriers for international travel of persons or property to the

extent that services by these carriers is available.

§ 109–40.104 Use of Government-owned transportation equipment.

The preferred method of transporting property for the Government is through use of the facilities and services of commercial carriers. However, Government vehicles may be used when they are available to meet emergencies, and accomplishment of program objectives which cannot be attained through use of commercial carriers.

§ 109–40.109 Utilization of special contracts and agreements.

From time to time special transportation agreements are entered into on a Government-wide or DOE-wide basis and are applicable, generally, to DOE shipments. The HQ DOE Manager, Transportation Operations and Traffic, will distribute information on such agreements to field offices as it becomes available.

§ 109–40.110 Assistance to economically disadvantaged transportation businesses.

§ 109–40.110–1 Small business assistance.

Consistent with the policies of the Government with respect to small businesses, DOE shall place with small business concerns a fair proportion of the total purchases and contracts for transportation and related services such as packing and crating, loading and unloading, and local drayage.

§ 109–40.110–2 Minority business enterprises.

Minority business enterprises shall have the maximum practical opportunity to participate in the performance of Government contracts. DOE shall identify transportation-related minority enterprises and encourage them to provide services that will support DOE's transportation requirements.

§ 109–40.112 Transportation factors in the location of Government facilities.

Transportation rate, charges, and commercial carrier transportation services shall be considered and evaluated prior to the selection of new site locations and during the planning and construction phases in the establishment of leased or relocated Government installations or facilities to ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

§ 109–40.113 Insurance against transportation hazards.

The policy of the Government with respect to insurance of its property while in the possession of commercial carriers is set forth in 41 CFR 1–19.107.

Subpart 109–40.3—Traffic Management

§ 109–40.301 Traffic management functions administration.

The DOE traffic management functions are accomplished by established field traffic offices under provisions of appropriate Departmental directives and Headquarters' staff traffic management supervision.

§ 109–40.302 Standard routing principle.

(a) Shipments shall be routed using the mode of transportation, or individual carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government.

(b) When more than one mode of transportation, or more than one carrier within a mode, can provide equally satisfactory service at the same overall cost the traffic shall be distributed as equitably as practicable among the modes and among the carriers within the modes.

§ 109–40.303–3 Most fuel efficient carrier/mode.

When more than one mode, or more than one carrier within a mode, can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the carrier/mode determined to be the most fuel efficient will be selected. In determining the most fuel efficient carrier/mode, consideration will be given to such factors as use of the carrier's equipment in ''turn around'' service, proximity of carrier equipment to the shipping activity, and ability of the carrier to provide the most direct service to the destination points.

§ 109–40.304 Rate tenders to the Government.

Under the provisions of section 10721 of the Interstate Commerce Act (49 U.S.C. 10721), common carriers are permitted to submit to the Government tenders which contain rates lower than published tariff rates available to the general public. In addition, rates tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially bears the freight charges (323 ICC 347 and 332 ICC 161).

§ 109–40.305–50 Negotiations involving national security.

Title 49 U.S.C., section 10721(b)(2) provides that rate tenders to the Government must be filed by the carriers within the Interstate Commerce Commission unless a carrier is advised by the U.S. Government that disclosure of a quotation or tender of a rate established . . . for transportation provided to the U.S. Government would endanger the National security. Carriers will be informed by the negotiating official if any quotation or tender to the Department of Energy involves such information.

§ 109–40.306–1 Recommended rate tender format.

Only those rate tenders which have been submitted by the carriers in writing shall be considered for use. Carriers should be encouraged to use the format ''Uniform Tender of Rates and/or Charges for Transportation Services'' when preparing and submitting rate tenders to the Government. Rate tenders that are ambiguous in meaning shall be resolved in favor of the Government.

§ 109–40.306–2 Required shipping documents and annotations.

(a) To qualify for transportation under section 10721 rates, property must be shipped by or for the Government on:

(1) Government bills of lading;

(2) Commercial bills of lading endorsed to show that these bills of lading are to be converted to Government bills of lading after delivery to the consignee;

(3) Commercial bills of lading showing that the Government is either the consignor or the consignee and endorsed with the following statement:

Transportation hereunder is for the U.S. Department of Energy, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government.

(b) When a rate tender is used for transportation furnished under a cost-reimbursable contract, the following endorsement shall be used on covering commercial bills of lading:

Transportation hereunder is for the U.S. Department of Energy, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are to be reimbursed by the Government, pursuant to cost-reimbursable contract number (insert contract number). This may be confirmed by contacting the agency representative at (name and telephone number). See 332 ICC 161.

(c) To ensure proper application of a Government rate tender on all shipments qualifying for their use, the issuing officer shall show on the bills of

lading covering such shipments the applicable rate tender number and carrier identification, such as: ''Section 10721 tender, ABC Transportation Company, ICC No. 374.'' In addition, if commercial bills of lading are used, they shall be endorsed as specified above.

§ 109–40.306–3 Distribution.

Each agency receiving rate tenders shall promptly submit one signed copy to the Transportation and Public Utilities Service (WIT), General Services Administration, Washington, DC 20407. Also, two copies (including at least one signed copy) shall be promptly submitted to the General Services Administration (TA), Chester A. Arthur Building, Washington, DC 20406.

Subpart 109–40.50—Bills of Lading

§ 109–40.5000 Scope of subpart.

This subpart sets forth the requirements under which commercial or Government bills of lading may be used.

§ 109–40.5001 Policy.

Generally DOE cost-type contractors will use commercial bills of lading in making shipments for the account of DOE. Cost-type contractors may be authorized by the contracting officer to use Government bills of lading if such use will be advantageous to the Government. Such authorizations shall be coordinated with the HQ DOE Manager, Transportation Operations and Traffic.

§ 109–40.5002 Applicability.

The policy and procedures set forth in this subpart shall be applied when DOE's cost-type contractors use commercial bills of lading.

§ 109–40.5003 Commercial bills of lading.

(a) DOE's cost-type contractors using commercial bills of lading in making shipments for the account of DOE shall include the following statement on all commercial bills of lading:

This shipment is for the account of the U.S. Government which will assume the freight charges and is subject to the terms and conditions set forth in the standard form of the U.S. Government bills of lading and to any available special rates or charges.

(b) The language in paragraph (a) of this section may be varied without materially changing its substance to satisfy the needs of particular cost-type contractors for the purpose of obtaining the benefit of the lowest available rates for the account of the Government.

(c) Where practicable, commercial bills of lading shall provide for consignment of a shipment to DOE c/o the cost-type contractor or by the contractor ''for the DOE.''

(d) Commercial bills of lading exceeding $10,000 issued by cost-type contractors shall be annotated with a typewritten, rubber stamp, or similar impression containing the following wording:

Equal Employment Opportunity. All provisions of Executive Order 11246, as amended by Executive Order 11375, and of the rules, regulations, and relevant orders of the Secretary of Labor are incorporated herein.

§ 109–40.5004 Government bills of lading.

In those instances where DOE cost-type contractors are authorized to use Government bills of lading, specific employees of cost-type contractors will be authorized by the contracting officer to issue such Government bills of lading (see Title V, U.S. Government Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies).

§ 109–40.5005 Description of property for shipment.

(a) Each shipment shall be described on the bill of lading or other shipping document as specified by the governing freight classification, carrier's tariff, or rate tender. Shipments shall be described as specifically as possible. Trade names such as ''Foamite'' or ''Formica,'' or general terms such as ''vehicles,'' ''furniture,'' or ''Government supplies,'' shall not be used as bill of lading descriptions.

(b) A shipment containing hazardous materials, such as explosives, radioactive materials, flammable liquids, flammable solids, oxidizers, or poison A or poison B, shall be prepared for shipment and described on bills of lading or other shipping documents in accordance with the Department of Transportation Hazardous Materials Regulation, 49 CFR, parts 100–189.

Subpart 109–40.51—Price-Anderson Coverage Certifications for Nuclear Shipments

§ 109–40.5100 Scope of subpart.

This subpart sets forth the policy for issuance of certifications regarding Price-Anderson coverage of particular shipments of nuclear materials.

§ 109–40.5101 Policy.

Upon request of a carrier, an appropriate certification will be issued by an authorized representative of the DOE to the carrier regarding the applicability of Price-Anderson indemnity to a particular shipment. Copies of such certifications, if performed by a Field Manager or a DOE cost-type contractor, shall be provided to the HQ DOE Manager, Transportation Operations and Traffic.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 109–42—UTILIZATION AND DISPOSAL OF HAZARDOUS MATERIALS AND CERTAIN CATEGORIES OF PROPERTY

Subpart 109–42.11—Special Types of Hazardous Material and Certain Categories of Property

Sec.

109–42.1101.50 Scope of subpart.
109–42.1101.51 Policy.
109–42.1102.50–1 Suspect personal property.
109–42.1102.50–2 Low level contaminated personal property.

Authority: 40 U.S.C. 486(c).

Subpart 109–42.11—Special Types of Hazardous Material and Certain Categories of Property

§ 109–42.1101.50 Scope of subpart.

This subpart sets forth policies and procedures for the utilization and disposal outside of DOE of excess and surplus personal property which has been radioactively or chemically contaminated.

§ 109–42.1101.51 Policy.

When the holding organization determines it is appropriate to dispose of contaminated personal property, it shall be disposed of by DOE in accordance with appropriate Federal regulations governing radiation/chemical exposure and environmental contamination. In special cases where Federal regulations do not exist or apply, appropriate state and local regulations shall be followed.

§ 109–42.1102.50–1 Suspect personal property.

(a) Excess personal property (including scrap) having a history of use in an area where radioactive or chemical contamination may occur shall be considered suspect and shall be monitored using appropriate instruments and techniques by qualified personnel of the DOE office or contractor generating the excess.

(b) With due consideration to the economic factors involved, every effort shall be made to reduce the level of contamination of excess or surplus personal property to the lowest practicable level. Contaminated personal property that exceeds applicable contamination standards shall not be utilized or disposed outside DOE.

(c) If contamination is suspected and the property is of such size,

construction, or location as to make testing for contamination impossible, the property shall not be utilized or disposed outside of DOE.

§ 109–42.1102.50–2 Low level contaminated personal property.

If monitoring of suspect personal property indicates that contamination does not exceed applicable standards, it may be utilized and disposed of in the same manner as uncontaminated personal property, provided the guidance in § 109–45.5005–1(a) of this subchapter has been considered. However, recipients shall be advised where levels of radioactive contamination require specific controls for shipment as provided in Department of Transportation Regulations (49 CFR parts 171–179) for shipment of radioactive personal property. In addition, when any contaminated personal property is screened within DOE, reported to GSA, or otherwise disposed of, the kind and degree of contamination must be plainly indicated on all pertinent documents.

PART 109–43—UTILIZATION OF PERSONAL PROPERTY

Sec.

§ 109–43.001 Definition.

Subpart 109–43.1—General Provisions

109–43.101 Agency utilization reviews.
109–43.103 Agency utilization officials.

Subpart 109–43.3—Utilization of Excess

109–43.302 Agency responsibility.
109–43.302–50 Utilization by designated contractors.
109–43.304 Reporting requirements.
109–43.304–1 Reporting.
109–43.304–1.50 DOE reutilization screening.
109–43.304–1.51 Transfers within DOE.
109–43.304–2 Form and distribution of reports.
109–43.304–4 Property at installations due to be discontinued.
109–43.305 Property not required to be formally reported.
109–43.305–50 Nuclear-related and proliferation-sensitive personal property.
109–43.307 Items requiring special handling.
109–43.307–2 Hazardous materials.
109–43.307–2.50 Monitoring of hazardous personal property.
109–43.307–2.51 Holding hazardous personal property.
109–43.307–3 Conditional gifts for defense purposes.
109–43.307–4 Conditional gifts to reduce the public debt.
109–43.307–50 Export controlled personal property.
109–43.307–51 Classified personal property.
109–43.307–52 Nuclear-related or proliferation-sensitive personal property.
109–43.307–53 Automatic Data Processing Equipment (ADPE).
109–43.307–54 Unsafe personal property.
109–43.312 Use of excess personal property on cost-reimbursement contracts.
109–43.313 Use of excess personal property on cooperative agreements.
109–43.314 Use of excess personal property on grants.
109–43.315 Certification of non-Federal agency screeners.

Subpart 109–43.5—Utilization of Foreign Excess Personal Property

109–43.502 Holding agency responsibilities.

Subpart 109–43.47—Reports

109–43.4701 Performance reports.

Subpart 109–43.50—Utilization of Personal Property Held for Facilities in Standby

109–43.5000 Scope of subpart.
109–43.5001 Definition.
109–43.5002 Reviews to determine need for retaining items.

Authority: 40 U.S.C. 486(c).

§ 109–43.001 Definition.

DOE screening period means the period of time that reportable excess personal property is screened throughout DOE for reutilization purposes and, for selected items, through the Used Energy-Related Laboratory Equipment (ERLE) Grant Program.

Subpart 109–43.1—General Provisions

§ 109–43.101 Agency utilization reviews.

DOE offices and designated contractors are responsible for continuously surveying property under their control to assure maximum use, and shall promptly identify property that is excess to their needs and make it available for use elsewhere.

§ 109–43.103 Agency utilization officials.

The DPMO is designated as the DOE National Utilization Officer.

Subpart 109–43.3—Utilization of Excess

§ 109–43.302 Agency responsibility.

§ 109–43.302–50 Utilization by designated contractors.

Heads of field organizations may authorize designated contractors to perform the functions pertaining to the utilization of excess personal property normally performed by a Federal agency, provided the designated contractors have written policies and procedures.

§ 109–43.304 Reporting requirements.

§ 109–43.304–1 Reporting.

§ 109–43.304–1.50 DOE reutilization screening.

(a) Prior to reporting excess personal property to GSA, reportable personal property shall be screened for reutilization within DOE through the Reportable Excess Automated Property System (REAPS) for a 30-day period. REAPS also provides for a 15-day expedited screening period for certain categories of personal property for economic development and to satisfy urgent conditions.

(b) An additional 30-day screening period shall be allocated for items eligible for screening by educational institutions through ERLE.

(c) In exceptional or unusual cases when time is critical, screening of excess property may be accomplished by telegram or facsimile with due consideration given to the additional costs involved. Examples of situations when this method of screening would be used are when there is a requirement for quick disposal actions due to unplanned contract terminations or facilities closing; to alleviate the paying of storage costs; when storage space is critical; to process exchange/sale transactions; property dangerous to public health and safety; property determined to be classified or otherwise sensitive for reasons of national security (when classified communications facilities are used); or for hazardous materials which may not be disposed of outside of the Department.

(d) Concurrent DOE and Federal agency screening generally shall not be conducted.

§ 109–43.304–1.51 Transfers within DOE.

Transfers within DOE generally shall be effected by completion of a SF–122, Transfer Order Excess Personal Property. Except for those designated contractors authorized by the DOE contracting office to execute transfer orders, transfers to DOE contractors must be approved by the cognizant DOE property administrator for the contractor receiving the property.

§ 109–43.304–2 Form and distribution of reports.

Reportable property will be electronically reported by REAPS directly to GSA following internal DOE and ERLE screening.

§ 109–43.304–4 Property at installations due to be discontinued.

When closing installations, DOE offices shall work with the appropriate

GSA regional offices to develop site utilization and disposal programs:

(a) In developing a disposal program, property shall be determined to be excess to DOE needs before reporting it to GSA.

(b) If a deviation from DOE policy or procedures is required, prior written approval of the Deputy Assistant Secretary for Procurement and Assistance Management shall be obtained.

(c) When deviation from existing GSA regulations is involved, approval by the appropriate GSA regional office will be sufficient to validate the disposition. A copy of the GSA approval should be forwarded for information to the DPMO.

§ 109–43.305 Property not required to be formally reported.

(a) [Reserved]

(b) Equipment, parts, accessories, jigs and components which are of special design, composition, or manufacture and which are intended for use only by specific DOE installations (such as spare parts for equipment used in atomic processes) are not reportable and shall not be formally screened within DOE or reported to GSA.

§ 109–43.305–50 Nuclear-related and proliferation-sensitive personal property.

Nuclear-related and proliferation-sensitive property is not reportable and shall not be formally screened within DOE or reported to GSA.

§ 109–43.307 Items requiring special handling.

§ 109–43.307–2 Hazardous materials.

§ 109–43.307–2.50 Monitoring of hazardous personal property.

To provide assurance that hazardous personal property is not being inadvertently released from the site by transfer or sale to the public, all hazardous or suspected hazardous personal property shall be checked for contamination by environmental, safety, and health officials. Contamination-free personal property will be tagged with a certification tag authorizing release for transfer or sale. Contaminated personal property will be referred back to the program office for appropriate action.

§ 109–43.307–2.51 Holding hazardous personal property.

Excess or surplus hazardous personal property shall not be commingled with non-hazardous personal property while waiting disposition action.

§ 109–43.307–3 Conditional gifts for defense purposes.

The Director, Office of Administrative Services and heads of field organizations shall take appropriate action as required when conditional gifts are offered.

§ 109–43.307–4 Conditional gifts to reduce the public debt.

The Director, Office of Administrative Services and heads of field organizations shall take appropriate action as required when conditional gifts are offered.

§ 109–43.307–50 Export controlled personal property.

(a) When personal property that is subject to export controls is being exported directly by DOE (e. g., a transfer of nuclear equipment or materials as part of a program of cooperation with another country), DOE or the DOE contractor must obtain the necessary export license.

(b) When personal property subject to export controls is transferred under work-for-others agreements, co-operative agreements, or technical programs, the recipients will be informed in writing that:

(1) The property is subject to export controls;

(2) They are responsible for obtaining export licenses or authorizations prior to transferring or moving the property to another country; and

(3) They are required to pass on export control guidance if they transfer the property to another domestic or foreign recipient.

§ 109–43.307–51 Classified personal property.

Classified personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to be classified, or otherwise rendered unclassified, as determined by the cognizant program office, prior to any disposition action. The cognizant program office shall certify that appropriate action has been taken to declassify the personal property as required. Declassification shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the personal property.

§ 109–43.307–52 Nuclear-related or proliferation-sensitive personal property.

(a) Recognizing that property disposal officials will not have the technical knowledge to identify nuclear-related and proliferation-sensitive personal property, all such personal property shall be physically tagged with a certification signed by an authorized program official at time of determination by the program office of the personal property as excess. Such an authorized official should be designated in writing with signature cards on file in the property office.

(b) Nuclear-related and proliferation-sensitive personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to be nuclear-related or proliferation-sensitive personal property, as determined by the cognizant program office, prior to disposal. The cognizant program office shall certify that appropriate actions have been taken to strip the personal property as required, or shall provide the property disposal office with adequate instructions for stripping the items. Such action shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the personal property.

(c) Heads of field organizations shall determine demilitarization requirements regarding combat material and military personal property.

§ 109–43.307–53 Automatic Data Processing Equipment (ADPE).

All ADPE shall be sanitized before being transferred into excess to ensure that all data, information, and software has been removed from the equipment. Designated computer support personnel must indicate that the equipment has been sanitized by attaching a certification tag to the item. ADPE will be utilized and disposed in accordance with the provisions of 41 CFR 201–23.

§ 109–43.307–54 Unsafe personal property.

Personal property that is considered defective or unsafe must be mutilated prior to shipment for disposal.

§ 109–43.312 Use of excess personal property on cost-reimbursement contracts.

(a) [Reserved]

(b) It is DOE policy for designated contractors to use Government excess personal property to the maximum extent possible to reduce contract costs. However, the determination required in 41 CFR 101–43.312(b) does not apply to such contracts, and a DOE official is not required to execute transfer orders for authorized designated contractors. The procedures prescribed in 41 CFR 101–43.309–5 for execution of transfer orders apply.

§ 109–43.313 Use of excess personal property on cooperative agreements.

(a)–(c) [Reserved]

(d) Heads of field organizations shall ensure that required records are maintained in a current status.

§ 109–43.314 Use of excess personal property on grants.

(a)–(e) [Reserved]

(f) Heads of field organizations shall ensure that the records required by 41 CFR 101–43.314(f) are maintained.

§ 109–43.315 Certification of non-Federal agency screeners.

(a)–(c) [Reserved]

(d) Contracting officers shall maintain a record of the number of certified non-Federal agency screeners operating under their authority and shall immediately notify the appropriate GSA regional office of any changes in screening arrangements.

Subpart 109–43.5—Utilization of Foreign Excess Personal Property

§ 109–43.502 Holding agency responsibilities.

(a) [Reserved]

(b) Property which remains excess after utilization screening within the general foreign geographical area where the property is located shall be reported to the accountable field office or Headquarters program organization for consideration for return to the United States for further DOE or other Federal utilization. The decision to return property will be based on such factors as acquisition cost, residual value, condition, usefulness, and cost of transportation.

Subpart 109–43.47—Reports

§ 109–43.4701 Performance reports.

(a) The annual report of the utilization of domestic excess personal property is submitted to GSA by the DPMO. Field office feeder reports shall be submitted to the DPMO by November 15 of each year in the form of the Utilization and Disposal of Excess and Surplus Personal Property (85–2). The report shall include data on excess and surplus personal property provided to educational institutions in support of kindergarten through twelfth grade programs and non-profit organizations as provided by the American Technology Preeminence Act of 1991 and Executive Order 12821, Improving Mathematics and Science Education in Support of the National Education Goals dated November 16, 1992. The data will appear as adjustments on the 85–2 report.

(b) [Reserved]

(c) The annual report of personal property furnished (e.g., transfers, gifts, loans, leases, license agreements, and sales) to non-Federal recipients, including elementary and secondary schools, is furnished to GSA by the DPMO. Feeder reports, using the format illustrated below, shall be submitted to the DPMO by November 15 of each year.

(1) Field office feeder reports shall include the following:

(i) Data for all excess personal property obtained from other Federal agencies and furnished to any DOE offsite or designated contractor or financial assistance recipient;

(ii) Data for all DOE personal property no longer needed by a DOE direct operation and subsequently furnished to any DOE offsite or designated contractor or financial assistance recipient.

(iii) Data for all personal property furnished to elementary and secondary schools and non-profit organizations under initiatives to support science and mathematics education.

(2) Field office feeder reports shall not include data for contractor inventory which is declared excess and subsequently redistributed through REAPS (or other means within DOE) to other DOE contractors or designated contractors' subcontractors.

(3) The feeder report from the Office of Science Education Programs, using the following format, will include data for all personal property furnished to non-federal recipients and institutions of higher learning under the ERLE Grant Program:

Name and Address of Recipient
Recipient's Status
Original Cost of Property
2 Digit Federal Supply Classification Group

Subpart 109–43.50—Utilization of Personal Property Held for Facilities in Standby

§ 109–43.5000 Scope of subpart.

This subpart supplements 41 CFR part 101–43 by providing policies and procedures for the economic and efficient utilization of personal property associated with facilities placed in standby status.

§ 109–43.5001 Definition.

Facility in standby means a complete plant or section of a plant, which is neither in service or declared excess.

§ 109–43.5002 Reviews to determine need for retaining items.

Procedures and practices shall require an initial review at the time the plant is placed in standby to determine which items can be made available for use elsewhere within the established start-up criteria; periodic reviews (no less than biennially) to determine need for continued retention of property; and special reviews when a change in start-up time is made or when circumstances warrant. Such procedures should recognize that:

(a) Equipment, spares, stores items, and materials peculiar to a plant should be retained for possible future operation of the plant;

(b) Where practicable, common-use stores should be removed and used elsewhere; and

(c) Uninstalled equipment and other personal property not required should be utilized elsewhere on-site or be disposed of as excess.

PART 109–44—DONATION OF PERSONAL PROPERTY

Subpart 109–44.7—Donations of Property to Public Bodies

Sec.
109–44.701 Findings justifying donation to public bodies.
109–44.702 Donations to public bodies.
109–44.702–3 Hazardous materials.

Subpart 109–44.47—Reports

109–44.4701 Reports.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 109–44.7—Donations of Property to Public Bodies

§ 109–44.701 Findings justifying donation to public bodies.

The Director, Office of Administrative Services and heads of field organizations shall appoint officials to make required findings and reviews.

§ 109–44.702 Donations to public bodies.

§ 109–44.702–3 Hazardous materials.

The Director, Office of Administrative Services and heads of field organizations shall be responsible for the safeguards, notifications, and certifications required by 41 CFR part 101–42 and part 109–42 of this subchapter, as well as compliance with all other requirements therein.

Subpart 109–44.47—Reports

§ 109–44.4701 Reports.

The annual report of the donation of surplus personal property is furnished to GSA by the DPMO in combination with the report of the utilization of excess personal property. Field office feeder reports shall be submitted to the DPMO by November 15 of each year.

PART 109–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 109–45.1—General

Sec.
109–45.105 Exclusions and exemptions.
109–45.105–3 Exemptions.

Subpart 109–45.3—Sale of Personal Property

109–45.300–50 Sales by designated contractors.
109–45.301–51 Export/import clause.

109–45.302 Sale to Government employees.
109–45.302–50 Sales to DOE and designated contractor employees.
109–45.303 Reporting property for sale.
109–45.303–3 Delivery.
109–45.304 Sales methods and procedures.
109–45.304–2 Negotiated sales and negotiated sales at fixed prices.
109–45.304–2.50 Negotiated sales and negotiated sales at fixed prices by designated contractors.
109–45.304–6 Reviewing authority.
109–45.304–50 Processing bids and awarding of contracts.
109–45.304–51 Documentation.
109–45.309 Special classes of property.
109–45.309–2.50 Hazardous property.
109–45.309–51 Export controlled property.
109–45.309–52 Classified property.
109–45.309–53 Nuclear-related or proliferation-sensitive property.
109–45.309–54 Automatic Data Processing Equipment (ADPE).
109–45.310 Antitrust laws.
109–45.317 Noncollusive bids and proposals.

Subpart 109–45.6—Debarred, Suspended, and Ineligible Contractors

109–45.601 Policy.
109–45.602 Listing debarred or suspended contractors.

Subpart 109–45.9—Abandonment or Destruction of Personal Property

109–45.901 Authority to abandon or destroy.
109–45.902 Findings justifying abandonment or destruction.
109–45.902–2 Abandonment or destruction without notice.

Subpart 109–45.10—Recovery of Precious Metals

109–45.1002 Agency responsibilities.
109–45.1002–2 Agency reporting requirements.
109–45.1002–3 Precious metals recovery program monitor.
109–45.1003 Recovery of silver from precious metals bearing materials.
109–45.1004 Recovery and use of precious metals through the DOD Precious Metals Recovery Program.

Subpart 109–45.47—Reports

109–45.4701 Performance reports.
109–45.4702 Negotiated sales reports.

Subpart 109–45.50—Excess and Surplus Radioactively and Chemically Contaminated Personal Property

109–45.5005 Disposal.
109–45.5005–1 General.

Subpart 109–45.51—Disposal of Excess and Surplus Personal Property in Foreign Areas

109–45.5100 Scope of subpart.
109–45.5101 Authority.
109–45.5102 General.
109–45.5103 Definitions.
109–45.5104 Disposal.
109–45.5104–1 General.
109–45.5104–2 Methods of disposal.
109–45.5105 Reports.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), para. 101–45.400—45.405 also issued under sec. 307, 49 Stat. 880; 40 U.S.C. 304*l*.

Subpart 109–45.1—General

§ 109–45.105 Exclusions and exemptions.

§ 109–45.105–3 Exemptions.

GSA, by letter dated May 28, 1965, exempted contractor inventory held by DOE designated contractors from the GSA conducted sales provisions of 41 CFR part 101–45.

Subpart 109–45.3—Sale of Personal Property

§ 109–45.300–50 Sales by designated contractors.

Sales of surplus contractor inventory will be conducted by designated contractors when heads of field organizations determine that it is in the best interest of the Government. OPMOs and appropriate program officials shall perform sufficient oversight over these sales to ensure that personal property requiring special handling or program office certification is sold in accordance with regulatory requirements.

§ 109–45.301–51 Export/import clause.

The following clause shall be included in all sales invitations for bid:

Personal property purchased from the U.S. Government may or may not be authorized for export/import from/into the country where the personal property is located. If export/import is allowed, the purchaser is solely responsible for obtaining required clearances or approvals. The purchaser also is required to pass on DOE's export control guidance if the property is resold or otherwise disposed.

§ 109–45.302 Sale to Government employees.

§ 109–45.302–50 Sales to DOE and designated contractor employees.

(a) DOE employees and employees of designated contractors shall be given the same opportunity to acquire Government personal property as is given to the general public, provided the employees warrant in writing prior to award that they have not either directly or indirectly:

(1) Obtained information not otherwise available to the general public regarding usage, condition, quality, or value of the personal property, or

(2) Participated in:

(i) The determination to dispose of the personal property;

(ii) The preparation of the personal property for sale; and

(iii) Determining the method of sale.

(b) Excess or otherwise unusable special, fitted clothing and other articles of personal property, acquired for the exclusive use of an individual employee, may be sold to the employee for the best price obtainable when the property is no longer required by the holding organization or the employee is terminated.

§ 109–45.303 Reporting property for sale.

§ 109–45.303–3 Delivery.

(a)–(b) [Reserved]

(c) Guidelines for signature authorization and control of blank copies of Standard Form 97, United States Government Certificate to Obtain Title to a Vehicle are contained in subpart 109–38.7 of this chapter.

§ 109–45.304 Sales methods and procedures.

§ 109–45.304–2 Negotiated sales and negotiated sales at fixed prices.

(a)(1) [Reserved]

(2) The head of each field organization shall designate a responsible person to approve negotiated sales by DOE direct operations.

(3) Requests for prior approval of negotiated sales by DOE direct operations shall be submitted with justification to the OPMO for review and forwarding to GSA for approval.

§ 109–45.304–2.50 Negotiated sales and negotiated sales at fixed prices by designated contractors.

(a) Negotiated sales by designated contractors of surplus contractor inventory may be made when the DOE contracting officer determines and documents prior to the sale that the use of this method of sale is justified on the basis of the circumstances enumerated below, provided that the Government's interests are adequately protected. These sales shall be at prices which are fair and reasonable and not less than the proceeds which could reasonably be expected to be obtained if the personal property was offered for competitive sale. Specific conditions justifying negotiated sales include:

(1) No acceptable bids have been received as a result of competitive bidding under a suitable advertised sale;

(2) Personal property is of such small value that the proceeds to be derived would not warrant the expense of a formal competitive sale;

(3) The disposal will be to a state, territory, possession, political subdivision thereof, or tax-supported agency therein, and the estimated fair market value of the personal property and other satisfactory terms of disposal are obtained by negotiation;

(4) The specialized nature and limited use potential of the personal property would create negligible bidder interest;

(5) Removal of the personal property would result in a significant reduction in value, or the accrual of disproportionate expense in handling; or

(6) It can be clearly established that such action is in the best interests of the Government.

(b) When determined to be in the best interests of the Government, heads of field organizations may authorize fixed-price sales of surplus contractor inventory by designated contractors provided:

(1) The fair market value of the item to be sold does not exceed $15,000;

(2) Adequate procedures for publicizing such sales have been established;

(3) The sales prices are not less than could reasonably be expected if competitive bid sales methods were employed and the prices have been approved by a reviewing authority designated by the head of the field organization; and

(4) The warranty prescribed in § 109–45.302–50(a) of this subpart is obtained when sales are made to employees.

§ 109–45.304–6 Reviewing authority.

The reviewing authority may consist of one or more persons designated by the head of the field organization.

§ 109–45.304–50 Processing bids and awarding of contracts.

The procedures established in 48 CFR 14.4 and 48 CFR 914.4 shall be made applicable to the execution, receipt, safeguarding, opening, abstraction, and evaluation of bids and awarding contracts, except that in evaluating bids and awarding contracts, disposal under conditions most advantageous to the Government based on high bids received shall be the determining factor.

§ 109–45.304–51 Documentation.

Files pertaining to surplus property sales shall contain copies of all documents necessary to provide a complete record of the sales transactions and shall include the following as appropriate:

(a) A copy of the request/invitation for bids if a written request/ invitation for bids is employed. A list of items or lots sold, indicating acquisition cost, upset price and sales price indicated.

(b) A copy of the advertising literature distributed to prospective bidders.

(c) A list of prospective bidders solicited.

(d) An abstract of bids received.

(e) Copies of bids received, including Standard Form 119, Contractor's Statement of Contingent or Other Fees, together with other relevant information.

(f) A statement concerning the basis for determination that proceeds constitute a reasonable return for property sold.

(g) When appropriate, full and adequate justification for not advertising the sale when the fair market value of property sold in this manner in any one case exceeds $1,000.

(h) A justification concerning any award made to other than the high bidder.

(i) The approval of the reviewing authority when required.

(j) A copy of the notice of award.

(k) All related correspondence.

(l) In the case of auction or spot bid sales, the following additional information should be included:

(1) A summary listing of the advertising used (e.g., newspapers, radio, television, and public postings).

(2) The names of the prospective bidders who attended the sale.

(3) A copy of any pertinent contract for auctioneering services and related documents.

(4) A reference to files containing record of deposits and payments.

§ 109–45.309 Special classes of property.

§ 109–45.309–2.50 Hazardous property.

Hazardous property shall be made available for sale only after the review and certification requirements of § 109–43.307–2.50 of this subpart have been met.

§ 109–45.309–51 Export controlled property.

Export controlled property shall be made available for sale only after the export license requirements of § 109–43.307–50 of this subpart have been met.

§ 109–45.309–52 Classified property.

Classified property shall be made available for sale only after the declassification requirements of § 109–43.307–51 of this subpart have been met.

§ 109–45.309–53 Nuclear-related or proliferation-sensitive property.

Nuclear-related or proliferation-sensitive property shall be made available for sale only after the stripping and certification requirements of § 109–43.307–52 of this subpart have been met.

§ 109–45.309–54 Automatic Data Processing Equipment (ADPE).

ADPE shall be made available for sale only after the sanitizing and certification requirements of § 109–43.307–53 of this subpart have been met.

§ 109–45.310 Antitrust laws.

DOE offices shall submit to the Deputy Assistant Secretary for Procurement and Assistance Management any request for a proposed sale of a patent, process, technique, or invention, regardless of cost; or of surplus personal property with a fair market value of $3,000,000 or more.

§ 109–45.317 Noncollusive bids and proposals.

(a) [Reserved]

(b) The head of the field organization shall make the determination required in 41 CFR 101–45.317(b). This authority cannot be redelegated.

Subpart 109–45.6—Debarred, Suspended, and Ineligible Contractors

§ 109–45.601 Policy.

(a)–(b) [Reserved]

(c) The Director, Office of Administrative Services and heads of field organization shall make the compelling reason determination when entering into a contract for the purchase of surplus Government personal property by a debarred or suspended contractor.

(d) The Deputy Assistant Secretary for Procurement and Assistance Management shall make the determination for simultaneously debarring and suspending a contractor from the purchase of surplus Federal personal property and the award of sales contracts.

§ 109–45.602 Listing debarred or suspended contractors.

(a) [Reserved]

(b) The Director, Office of Administrative Services and heads of field organizations shall establish procedures to ensure that listed contractors are not awarded contracts.

Subpart 109–45.9—Abandonment or Destruction of Personal Property

§ 109–45.901 Authority to abandon or destroy.

Personal property in the possession of DOE offices or designated contractors may be abandoned or destroyed provided that a written determination has been made by the OPMO that property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale.

§ 109–45.902 Findings justifying abandonment or destruction.

§ 109–45.902–2 Abandonment or destruction without notice.

The head of the field organization shall designate an official to make the

findings justifying abandonment or destruction without public notice of personal property. The OPMO shall review and coordinate on the findings.

Subpart 109–45.10—Recovery of Precious Metals

§ 109–45.1002 Agency responsibilities.

The Director, Office of Administrative Services and heads of field organizations are responsible for establishing a program for the recovery of precious metals.

§ 109–45.1002–2 Agency reporting requirements.

Each DOE organization and designated contractor generating precious metals scrap shall prepare the report on precious metals recovery. Negative reports are required. Contractors shall submit reports to the DOE contracting office for review and approval. DOE organizations shall submit reports, including contractor reports, to the DPMO not later than 30 days after the end of the fiscal year.

§ 109–45.1002–3 Precious metals recovery program monitor.

The DPMO shall be the precious metals recovery program monitor.

§ 109–45.1003 Recovery of silver from precious metals bearing materials.

The Director, Office of Administrative Services and heads of field organizations are responsible for the establishment and maintenance of a program for silver recovery from used hypo solution and scrap film.

§ 109–45.1004 Recovery and use of precious metals through the DOD Precious Metals Recovery Program.

DOE operates its own precious metals pool and therefore does not participate in the DOD Precious Metals Recovery Program. See § 109–27.5106 of this chapter for guidance on operation of the DOE precious metals pool.

Subpart 109–45.47—Reports

§ 109–45.4701 Performance reports.

The report of the sale or other disposition of surplus personal property is furnished to GSA by the DPMO. The required data is taken from the Utilization and Disposal of Excess and Surplus Personal Property (85–2) report required by § 109–43.4701 of this subchapter.

§ 109–45.4702 Negotiated sales reports.

The report of negotiated sales shall be submitted by DOE offices to the DPMO by November 15 of each year for furnishing to GSA.

Subpart 109–45.50—Excess and Surplus Radioactively and Chemically Contaminated Personal Property

§ 109–45.5005 Disposal.

§ 109–45.5005–1 General.

(a) Nuclear-related, proliferation-sensitive, low level contaminated property, and classified personal property shall not be transferred, sold, exchanged, leased, donated, abandoned, or destroyed without approval of the cognizant program office. Disposal of this personal property is subject to the restrictions contained in applicable sections of part 109–42 and §§109–43.307–50, 109–43.307–51, and 109–43.307–52 of this subchapter, and applicable sections of 41 CFR part 101–42.

(b) Personal property that is considered defective or unsafe must be mutilated prior to shipment for disposal.

Subpart 109–45.51—Disposal of Excess and Surplus Personal Property in Foreign Areas

§ 109–45.5100 Scope of subpart.

This subpart sets forth policies and procedures governing the disposal of DOE-owned foreign excess and surplus personal property.

§ 109–45.5101 Authority.

The policies and procedures contained in this subpart are issued pursuant to the provisions of 40 U.S.C. 471, Federal Property and Administrative Services Act of 1949, as amended. Title IV of the Act entitled ''Foreign Excess Property'' provides that, except where commitments exist under previous agreements, all excess personal property located in foreign areas shall be disposed of by the owning agency, and directs that the head of the agency conform to the foreign policy of the United States in making such disposals.

§ 109–45.5102 General.

Disposal of Government-owned personal property in the custody of DOE organizations or its contractors in foreign areas shall be made in an efficient and economical manner, and in conformance with the foreign policy of the United States.

§ 109–45.5103 Definitions.

As used in this subpart, the following definitions apply:

Foreign means outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Foreign service post means the local diplomatic or consular post in the area where the excess personal property is located.

§ 109–45.5104 Disposal.

§ 109–45.5104–1 General.

Foreign excess personal property which is not required for transfer within DOE or to other U.S. Government agencies, except for the personal property identified in § 109–45.5005–1(a) of this part, shall be considered surplus and may be disposed of by transfer, sale, exchange, or lease, for cash, credit, or other property and upon such other terms and conditions as may be deemed proper. Such personal property may also be donated, abandoned, or destroyed under the conditions specified in § 109–45.5105–2(c) of this subpart. Most foreign governments have indicated to the U.S. State Department that they wish to be consulted before U.S. Government property is disposed of in their countries (except in the case of transfers to other U.S. Government agencies). Matters concerning customs duties and taxes, or similar charges, may require prior agreement with the foreign government involved. The State Department shall be contacted in regard to these issues. Whenever advice or approval of the State Department is required by this subpart, it may be obtained either through the foreign service post in the foreign area involved or from the State Department in Washington, DC. If the issue is to be presented to the State Department in Washington, DC, it shall be referred through appropriate administrative channels to the Deputy Assistant Secretary for Procurement and Assistance Management for review, coordination, and handling.

§ 109–45.5104–2 Methods of disposal.

(a) Sales of foreign surplus personal property shall be conducted in accordance with the following guidelines:

(1) Generally, all sales of foreign surplus personal property shall be conducted under the competitive bid process unless it is advantageous and more practicable to the Government not to do so. When competitive bids are not solicited, reasonable inquiry of prospective purchasers shall be made in order that sales may be made on terms most advantageous to the U.S. Government.

(2) In no event shall any personal property be sold in foreign areas without a condition which states that its importation into the United States is

forbidden unless the U.S. Secretary of Agriculture (in the case of any agricultural commodity, food, cotton, or woolen goods), or the U.S. Secretary of Commerce (in the case of any other property), has determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of the United States.

(3) Sales documents shall provide that the purchaser must pay any import duties or taxes levied against personal property sold in the country involved and further provide that the amount of this duty or tax shall not be included as a part of the price paid the U.S. Government for the personal property. In the event the levy is placed upon the seller by law, the buyer will be required to pay all such duties or taxes and furnish the seller copies of his receipts prior to the release of the personal property to him. However, if the foreign government involved will not accept payment from the buyer, the seller will collect the duties or taxes and turn the amounts collected over to the foreign government. Accounting for the amounts collected shall be coordinated with the disbursing officer of the nearest United States foreign service post. The property shall not be released to the purchaser until the disposal officer is satisfied that there is no responsibility for payment by the United States (as contrasted to collection by the United States) of taxes, duties, excises, etc.

(4) Certain categories of personal property, including small arms and machine guns; artillery and projectiles; ammunition, bombs, torpedoes, rockets and guided missiles; fire control equipment and range finders; tanks and ordinance vehicles; chemical and biological agents, propellants and explosives; vessels of war and special naval equipment; aircraft and all components, parts and accessories for aircraft; military electronic equipment; aerial cameras, military photo-interpretation, stereoscopic plotting and photogrammetry equipment; and all material not enumerated which is included in the United States Munitions List, 22 CFR 121.01, and is subject to disposal restrictions. Advance approval must be obtained from the State Department for the sale of all such articles. Therefore, prior to the sale of any of the articles enumerated in the U.S. Munitions List, the foreign service post in the area shall be consulted.

(5) Prior to the sale of personal property which has a total acquisition cost of $250,000 or more, plans for such sale shall be reported to the DPMO with ample time to allow consideration of possible foreign policy issues and advice thereon from the State Department (see § 109–45.5106(a) of this subpart). All proposed sales, regardless of the total acquisition cost of the personal property involved, which the head of the DOE foreign office believes might have a significant economic or political impact in a particular area, shall be discussed with the foreign service post.

(b) While there is authority for exchange or lease of foreign surplus personal property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under section 109–45.5105–2(a) of this subpart.

(c) (1) Foreign excess or surplus personal property (including salvage and scrap) may be donated, abandoned, or destroyed provided:

(i) The property has no commercial value or the estimated cost of its care and handling would exceed the estimated proceeds from its sale; and

(ii) A written finding to that effect is made and approved by the Deputy Assistant Secretary for International Energy Policy.

(2) No personal property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational, public health, or charitable nonprofit organizations.

(3) Foreign excess personal property may also be abandoned or destroyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by these means and approval by the Deputy Assistant Secretary for International Energy Policy is required.

(4) Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

§ 109–45.5105 Reports.

(a) Proposed sales of foreign surplus personal property having an acquisition cost of $250,000 or more shall be reported to the DPMO and should include all pertinent data, including the following:

(1) The description of personal property to be sold, including:

(i) Identification of personal property (description should be in terms understandable to persons not expert in technical nomenclature). Personal property covered by the U. S. Munitions List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly identified;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (e.g., sealed bid, negotiated sale, etc.)

(3) Any currency to be received and payment provisions (i.e., U.S. dollars, foreign currency, or credit, including terms of the proposed sale).

(4) Any restrictions on use of personal property to be sold (such as resale of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms or conditions of sale.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc., will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in Chapter III of DOE Order 534.1, Accounting.

PART 109–46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Sec.

109–46.000 Scope of part.
109–46.000–50 Applicability.

Subpart 109–46.2—Authorization

109–46.202 Restrictions and limitations.
109–46.203 Special authorizations.

Subpart 109–46.3—Exchange and Sale Procedures

109–46.305 Reports.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 109–46.000 Scope of part.

§ 109–46.000–50 Applicability.

(a) Except as set forth in paragraphs (a)(1)–(a)(5), the requirements of FPMR Part 101–46 and this part are not applicable to designated contractors. Designated contractors shall comply with the following FPMR requirements:

(1) 101–46.200

(2) 101–46.201–1

(3) 101–46.202(b) (2), (3), (4), (5), (6), and (7)

(4) 101–46.202(c) (1), (2), (4), (5), (6), (7), (10), (11), and (12)

(5) 101–46.202(d)

(b) Items in the following Federal Supply Classification Groups (FSCG) are not eligible for processing under the exchange/sale provision. Requests for waivers must be processed through the DPMO to GSA.

FSCG	Description
10	Weapons.
11	Nuclear ordnance.
12	Fire control equipment.
14	Guided missiles.
15	Aircraft and airframe structural components.
16	Aircraft components and accessories.
17	Aircraft launching, landing, and ground handling equipment.
20	Ship and marine equipment.
22	Railway equipment.
41	Firefighting, rescue, and safety equipment.

Subpart 109–46.2—Authorization

§ 109–46.202 Restrictions and limitations.

(a), (b), (c)(1)–(c)(9) [Reserved]

(c) * * *

(10) The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall designate an official to make the certification that a continuing valid requirement exists for excess personal property acquired and placed in official use for less than one year but no longer required and is to be disposed of under the exchange/sale provisions.

(11) [Reserved]

(12) Heads of field organizations shall make the determination concerning demilitarization of combat material.

§ 109–46.203 Special authorizations.

(a) [Reserved]

(b) The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall designate an official to make the certification concerning the exchange of historic items for historical preservation or display.

Subpart 109–46.3—Exchange and Sale Procedures

§ 109–46.305 Reports.

The report of exchange/sale transactions by DOE offices shall be submitted through normal administrative channels to the DPMO within 60 days after the close of the fiscal year. Property exchanged or traded in by designated contractors is not considered as exchange/sale transactions under this part, and are not to be included in field office submissions. Written negative reports are required.

PART 109–48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.

109–48.000 Scope of part.
109–48.000–50 Applicability.

Subpart 109–48.1—Utilization of Abandoned and Forfeited Personal Property

109–48.101 Forfeited or voluntarily abandoned property.
109–48.101–6 Transfer to other Federal agencies.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 109–48.000 Scope of part.

§ 109–48.000–50 Applicability.

This part is applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government that are managed and operated by designated contractors.

Subpart 109–48.1—Utilization of Abandoned and Forfeited Personal Property

§ 109–48.101 Forfeited or voluntarily abandoned property.

§ 109–48.101–6 Transfer to other Federal agencies.

(a)–(e) [Reserved]

(d) Transfer orders for forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages for medicinal, scientific, or mechanical purposes or any other official purposes for which appropriated funds may be expended by a Government agency shall be forwarded through normal administrative channels for signature by the DPMO and for subsequent forwarding to GSA for release.

(f) Transfer orders for reportable forfeited drug paraphernalia shall be forwarded through normal administrative channels for signature by the DPMO and for subsequent forwarding to GSA for approval.

PART 109–50—SPECIAL DOE DISPOSAL AUTHORITIES

Sec.

109–50.000 Scope of part.
109–50.001 Applicability.

Subpart 109–50.1—Used Energy-Related Laboratory Equipment Grant Program

109–50.100 Scope of subpart.
109–50.101 Applicability.
109–50.102 General.
109–50.103 Definitions.
109–50.104 Equipment which may be granted.
109–50.105 Equipment which may not be granted.
109–50.106 Procedure.

Subpart 109–50.2—Math and Science Equipment Gift Program

109–50.200 Scope of subpart.
109–50.201 Applicability.
109–50.202 Definitions.
109–50.203 Eligible equipment.
109–50.204 Limitations.
109–50.205 Procedure.
109–50.206 Reporting.

Subpart 109–50.3—Economic Development

109–50.300 Scope of subpart.
109–50.301 Applicability.
109–50.302 General.
109–50.303 Authority.
109–50.304 Procedure.

Subpart 109–50.4—Programmatic Disposal to Contractors of DOE Property in a Mixed Facility

109–50.400 Scope of subpart.
109–50.401 Definitions.
109–50.402 Submission of proposals.
109–50.403 Need to establish DOE program benefit.

Subpart 109–50.48—Exhibits

109–50.4800 Scope of subpart.
109–50.4801 Equipment Gift Agreement.
109–50.4802 Personal property eligible for disposal processing under economic development procedures.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254); sec. 31, Atomic Energy Act, as amended; Department of Energy Reorganization Act, secs. 103 and 107; Title III, Department of Energy Organization Act; E.O. 12999; Sec. 3710(i), Stevenson-Wydler Technology Innovation Act, as amended (15 U.S.C. 3710(i)); Pub. L. 101–510, Department of Energy Science Education Enhancement Act; Pub. L. 102–245, American Technologies Preeminence Act of 1991 (15 U.S.C. 3701); Sec. 3155, Pub. L. 103–160 (42 U.S.C. 7274l); Office of Energy Research Financial Assistance Regulations (10 CFR part 605).

§ 109–50.000 Scope of part.

This part provides guidance on the policies, practices, and procedures for the disposal of DOE property under special legislative authorities.

§ 109–50.001 Applicability.

The provisions of this part apply to direct DOE operations and to designated contractors only when specifically provided for in the appropriate subpart.

Subpart 109–50.1—Used Energy-Related Laboratory Equipment Grant Program

§ 109–50.100 Scope of subpart.

This subpart provides guidance on the granting of used energy-related laboratory equipment to universities and colleges and other nonprofit educational institutions of higher learning in the United States for use in energy-oriented educational programs.

§ 109–50.101 Applicability.

This subpart is applicable to DOE offices and designated contractors.

§ 109–50.102 General.

DOE, to encourage research and development in the field of energy, awards grants of excess energy-related laboratory equipment to eligible institutions for use in energy-oriented educational programs. Under the Used Energy-Related Laboratory Equipment (ERLE) Grant Program, grants of used energy-related equipment excess to the requirements of DOE offices and designated contractors may be made to eligible institutions prior to reporting the equipment to GSA for reutilization screening.

§ 109–50.103 Definitions.

As used in this subpart the following definitions apply:

Book value means acquisition cost less depreciation.

DOE Financial Assistance Rules (10 CFR part 600) means the DOE regulation which establishes a uniform administrative system for application, award, and administration of assistance awards, including grants and cooperative agreements.

Eligible institution means any nonprofit educational institution of higher learning, such as universities, colleges, junior colleges, hospitals, and technical institutes or museums located in the United States and interested in establishing or upgrading energy-oriented education programs.

Energy-oriented education program means one that deals partially or entirely in energy or energy-related topics.

§ 109–50.104 Equipment which may be granted.

Generally, equipment items classified in FSCG 66, Instruments and Laboratory Equipment, are eligible for granting under this program. Other selected items designated by the Office of Laboratory Policy and Infrastructure Management and approved by the DPMO, are made available under the program.

§ 109–50.105 Equipment which may not be granted.

Equipment which will not be granted includes:

(a) Any equipment determined to be required by DOE direct operations or DOE designated contractors; or

(b) General supplies, such as Bunsen burners, hoods, work benches; office equipment and supplies; furniture; drafting supplies; refrigerators; tools; presses; lathes; furnaces; hydraulic and mechanical jacks; cranes; and hoists.

§ 109–50.106 Procedure.

(a) After DOE utilization screening through REAPS, items eligible for ERLE grants are extracted from the REAPS system and provided to the Office of Energy Research on an ADPE tape or by electronic means.

(b) The Office of Energy Research provides this information to prospective grantees through an automated system and/or a printed catalog.

(c) The following periods have been established during which time equipment will remain available to this program prior to reporting it to GSA for reutilization by other Federal agencies:

(1) Thirty days from the date DOE utilization screening is completed to permit suitable time for eligible institutions to review and earmark the desired equipment.

(2) An additional thirty days after the equipment is earmarked to permit the eligible institutions to prepare and submit an equipment proposal request and to provide time for field organizations to review and evaluate the proposal and take appropriate action.

(d) Upon approval of the proposal, a grant will be issued to the institution upon completion.

(e) A copy of the completed grant, shall be used to transfer title and drop accountability of the granted equipment from the financial records.

(f) The cost of care and handling of personal property incident to the grant shall be charged to the receiving institution. Such costs may consist of packing, crating, shipping and insurance, and are limited to actual costs. In addition, where appropriate, the cost of any repair and/or modification to any equipment shall be borne by the recipient institution.

Subpart 109–50.2—Math and Science Equipment Gift Program

§ 109–50.200 Scope of subpart.

This subpart provides guidance on providing gifts of excess and/or surplus education related and Federal research equipment to elementary and secondary educational institutions or nonprofit organizations for the purpose of improving math and science curricula or conducting of technical and scientific education and research activities.

§ 109–50.201 Applicability.

The provisions of this subpart are applicable to DOE offices and designated contractors.

§ 109–50.202 Definitions.

As used in this subpart the following definitions apply:

DOE Field Organizations means the DOE Federal management activities, including Operations Offices, Field Offices, Area Offices, Site Offices, Energy Technology Centers, and Project Offices staffed by Federal employees.

Education-related and Federal research equipment includes but is not limited to DOE-owned property in FSCG 34, 36, 41, 52, 60, 61, 66, 67, 70, and 74 (See 41 CFR 101–43.4801(d)), and other related equipment, which is deemed appropriate for use in improving math and science curricula or activities for elementary and secondary school education, or for the conduct of technical and scientific education and research activities.

Eligible recipient means local elementary and secondary schools and nonprofit organizations.

Elementary and secondary schools means individual public or private educational institutions encompassing kindergarten through twelfth grade, as well as public school districts.

Facilities under DOE Field Organization cognizance means national laboratories, production plants, and project sites managed and operated by DOE contractors or subcontractors.

§ 109–50.203 Eligible Equipment.

(a) Education-related and research equipment will include, but is not limited to the following FSCGs:

FSCG	Description
34	Metalworking Machinery.
36	Special Industry Machinery.
41	Refrigeration, Air Conditioning and Air Circulating Equipment.
52	Measuring Tools.
60	Fiber Optics Materials, Components, Assemblies and Accessories.
61	Electric Wire, and Power and Distribution Equipment.
66	Instruments and Laboratory Equipment.
67	Photographic Equipment.
70	General Purpose Automatic Data Processing Equipment (Including Firmware), Software, Supplies and Support Equipment.
74	Office Machines, Text Processing Systems and Visible Record Equipment.

(b) Other related equipment may be provided if deemed appropriate and approved by the Director, Office of Laboratory Policy and Infrastructure Management.

§ 109–50.204 Limitations.

(a) Excess and/or surplus education-related and Federal research equipment at DOE Field Organizations and cognizant facilities is eligible for transfer as a gift under this program. However, safety, environmental, and health matters must be considered.

(b) Title to the equipment will transfer upon the recipient's written acknowledgement of receipt.

(c) The Director, Office of Laboratory Policy and Infrastructure Management may authorize gifts of excess and/or surplus education-related and Federal research equipment by signature on the appropriate gift instrument where the book value of an item of equipment exceeds $25,000 or the cumulative book value of the gifts under this program to any one institution exceeds $25,000. HCA or designee may authorize gifts of excess and/or surplus education-related and Federal research equipment of lesser individual and cumulative book value by signature on the appropriate gift instrument. Delegations by the HCA to authorize gifts of excess and/or surplus education related and Federal research equipment shall be in writing to a specific individual, for a specified period of time, and for a specified (or unlimited) level of authority.

(d) Gifts shall be serviceable and in working order. Disposal Condition Codes 1 and 4, as defined in 41 CFR 101–43.4801(e), meet this criteria. Serviceability of equipment should be verified before the gift is made to the eligible recipient.

§ 109–50.205 Procedure.

(a) The DOE facility will set aside an appropriate amount of excess and/or surplus education-related and Federal research equipment for transfer under this program as determined by the HCA.

(b) A list of available education-related and Federal research equipment will be prepared and distributed to eligible recipients.

(c) Precollege institutions with partnership arrangements with the DOE or its facilities (e.g., an adopted school) may receive gifts of equipment in support of the partnership.

(d) Precollege institutions not in a partnership with DOE may receive equipment at the recommendation of the local education agency.

(e) Eligible recipients will have 30 days to select and freeze the items desired and submit a request for selected items stating:

(1) Why the gift is needed; and

(2) How the gift will be used to improve math and science curricula or in the conduct of technical and scientific education and research activities.

(f) The Chief State School Officer will determine which schools will receive equipment within their state. Consideration for placement of the equipment should be based on:

(1) The elementary or secondary schools determined to have the greatest need; or

(2) Recipients of federally funded math and science projects where the equipment would further enhance the progress of the project.

(g) The cost of shipping should be minimal and not more than the actual equipment value.

(h) An Equipment Gift Agreement will be prepared and used to provide the gift to eligible recipients. The gift agreement will be in the format provided in § 109–50.4801 of this subchapter. The agreement shall be numbered for control purposes, and signed by the Director, Office of Laboratory Policy and Infrastructure Management or the HCA or designee, as appropriate, and an appropriate official representing the eligible recipient.

§ 109–50.206 Reporting.

(a) Gifts made under this program shall be included in the annual report of property transferred to non-Federal recipients, as required by 41 CFR 101–43.4701(c) and § 109–43.4701(c) of this subchapter.

(b) A copy of each equipment agreement shall be forwarded to the Director, Office of Laboratory Policy and Infrastructure Management.

Subpart 109–50.3—Economic Development

§ 109–50.300 Scope of subpart.

This subpart provides guidance concerning the transfer of DOE personal property identified as necessary for local economic development to communities adversely affected by the downsizing or closure of a DOE site.

§ 109–50.301 Applicability.

(a) The provisions of this subpart apply to DOE sites and facilities that are undergoing closure, reconfiguration, or other significant transition due to the downsizing of the Department's nuclear weapons production mission.

(b) The provisions of this subpart do not apply to weapons, nuclear ordnance, ammunition and explosives, guided missiles, aircraft and aircraft components, ships and marine equipment, and space vehicles.

§ 109–50.302 General.

(a) Before transfer to other DOE or external users, all personal property subject to these provisions will be reviewed to determine if DOE high risk personal property controls, specified in subpart 109–1.53 of this chapter, apply.

(b) All personal property identified as necessary for non-nuclear reconfigurations will be shipped to other DOE sites to reestablish key technologies for National Defense programs. Such personal property will not be made available for local economic development.

(c) All personal property that is excess to DOE needs and which has been identified as having possible application to local economic development projects will be so identified in a local personal property inventory database.

(d) Communities affected by the reconfiguration or closure of nearby DOE sites or facilities are required to establish a Community Reuse Organization (CRO) to determine and sponsor economic development actions that the community may take to offset the local effects of DOE downsizing. DOE intends to only work with the CRO.

§ 109–50.303 Authority.

The Secretary of Energy is authorized under Pub. L. 103–160 to transfer, for consideration, Government rights, title, and interest in and to excess and, under certain circumstances, non-excess personal property and equipment to local communities if the Secretary determines that such transfers will mitigate the adverse economic consequences that might otherwise arise from the closure, reconfiguration, or other significant transition of DOE sites and facilities due to the downsizing of the Department's nuclear weapons production mission.

§ 109–50.304 Procedure.

(a) The Operations Offices, Field Offices, or Area Offices, as appropriate, shall assist the local CROs in the development of local economic development program plans. The plans should describe any personal property needed for specific economic development projects to be accomplished.

(b) The CRO shall determine and sponsor the actions that the local community may take to offset the consequences of the downsizing or closure of the DOE site.

(c) In carrying out the provisions of this subpart, the decision matrix in § 109–50.4802(a) of this subchapter will be used. In addition, the following guidance is provided to assist in carrying out the reutilization determination:

(1) Determination and screening of excess.

(i) An inventory of the personal property identified for potential local economic use will be provided to the CRO. Transfer of possession or conveyance of title to property will not

occur, however, until the property is determined to be excess to DOE needs.

(ii) The determination that items of personal property designated as Group 1 items (i.e., items in the FSCGs listed in § 109–50.4802(b) of this subchapter having an acquisition cost of less than $5,000) are excess to DOE needs may be made by the local activity where the property is located. Group 1 property will not be subject to Departmental screening through REAPS.

(iii) Personal property items designated as Group 2 items (items in the FSCGs listed in § 109–50.4802(c) of this subchapter having an acquisition cost of less than $5,000) will receive Departmental screening through REAPS for 15 days only.

(iv) All other personal property items not designated as either Group 1 or Group 2 items will undergo REAPS screening for 30 days. Procedures for REAPS processing of personal property identified for economic development are included in § 109–50.4802(d) of this subchapter.

(2) Transfer of excess for economic development.

(i) When it is determined that there are no DOE requirements, the excess personal property may be offered to the CRO for use in economic development in exchange for reasonable consideration.

(ii) If the CRO and DOE agree on the amount of consideration, the property will be transferred to the CRO and moved to a CRO-controlled area.

(iii) All Government rights, title, and interests in personal property that is transferred to the CRO under this initiative will convey at the time of transfer.

(iv) The amount of consideration received by the Government for the transfer of excess property to the CRO will be determined by the HCA. The amount received may be less than the fair market value of the property if the HCA, acting on behalf of the Secretary, determines that the receipt of a lesser amount by the Government is in accordance with the purpose of such transfer under Pub. L. 103–160.

(3) Transfer of non-excess personal property. Personal property which is not excess, as determined by the property manager, may also be transferred to the CRO for consideration if it has a replacement cost not exceeding 110 percent of the cost to relocate the property to another DOE facility. Relocation costs may include storage, protection, removal, transportation, insurance, and other associated costs.

(4) Other.

(i) When an item has been identified for both economic development and a DOE program, a program need determination may be made by the manager of the cognizant Operations or Field Office. If the manager elects not to make the determination, the issue will be forwarded to the Associate Deputy Secretary for Procurement and Assistance Management for a coordinated final decision with the Associate Deputy Secretary for Field Management. Government property will not be transferred until the appropriate program need determination has been made.

(ii) When the CRO declines to accept property that has been offered, DOE will proceed with disposal in accordance with applicable provisions of the FPMR and this regulation.

Subpart 109–50.4—Programmatic Disposal to Contractors of DOE Property in a Mixed Facility

§ 109–50.400 Scope of subpart.

This subpart contains policy to be followed when it is proposed to sell or otherwise transfer DOE personal property located in a mixed facility to the contractor who is the operator of that facility.

§ 109–50.401 Definitions.

As used in this subpart, the following definitions apply:

Contractor means the operator of the mixed facility.

DOE property means DOE-owned personal property located in a mixed facility.

Mixed facility means a partly DOE-owned and partly contractor-owned facility. For purposes of this subpart, however, this definition does not apply to such a facility operated by an educational or other nonprofit institution under a basic research contract with DOE.

§ 109–50.402 Submission of proposals.

Proposals involving programmatic disposals of DOE personal property located in mixed facilities to contractors operating that facility shall be forwarded through the appropriate program organization to the DPMO, for review and processing for approval. Each such request shall include all information necessary for a proper evaluation of the proposal. The proposal shall include, as a minimum:

(a) The purpose of the mixed facility;

(b) The description, condition, acquisition cost, and present use of the DOE personal property involved.

(c) The programmatic benefits which could accrue to DOE from the disposal to the contractor (including the considerations which become important if the disposal is not made);

(d) The appraised value of the DOE personal property (preferably by independent appraisers); and

(e) The proposed terms and conditions of disposal including:

(1) Price;

(2) Priority to be given work for DOE requiring the use of the transferred property, and including the basis for any proposed charge to DOE for amortizing the cost of plant and equipment items;

(3) Recapture of the property if DOE foresees a possible future urgent need; and

(4) Delivery of the property, whether ''as is-where is,'' etc.).

§ 109–50.403 Need to establish DOE program benefit.

When approval for a proposed programmatic disposal of DOE personal property in a mixed facility is being sought, it must be established that the disposal will benefit a DOE program. For example, approval might be contingent on showing that:

(a) The entry of the contractor as a private concern into the energy program is important and significant from a programmatic standpoint; and

(b) The sale of property to the contractor will remove obstacles which otherwise discourage entry into the field.

Subpart 109–50.48—Exhibits

§ 109–50.4800 Scope of subpart.

This subpart exhibits information referenced in the text of part 109–50 of this subchapter that is not suitable for inclusion elsewhere in that part.

§ 109–50.4801 Equipment Gift Agreement.

(a) The following Equipment Gift Agreement format will be used to provide gifts of excess and/or surplus equipment to eligible recipients under the Math and Science Equipment Gift Program (see subpart 109–50.2 of this subchapter).

EQUIPMENT GIFT AGREEMENT

(Reference Number)

Between The U.S. Department of Energy and

(Name of Eligible Recipient)

I. Purpose

The Department of Energy shall provide as a gift, excess and/or surplus education-related and Federal research equipment to (Name of Eligible Recipient) , hereafter referred to as the Recipient, for the purpose of improving the Recipient's math and science education curricula or for the Recipient's conduct of technical and scientific education and research activities.

II. Authority

Executive Order 12821, November 16, 1992, directed all Federal agencies, to the maximum extent permitted by law, to give highest preference to elementary and secondary schools in the transfer or donation of education-related Federal equipment, at the lowest cost permitted by law. Furthermore, subsection 11(i) of the Stevenson Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710(i)), authorizes the Director of a laboratory, or the head of any Federal agency or department to give excess research equipment to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities.

III. Agreement

A. The Department of Energy agrees to provide the equipment identified in the attached equipment gift list, as a gift for the purpose of improving the Recipient's math and science curricula or for the Recipient's conduct of technical and scientific education and research activities.

B. Title to the education-related and Federal research equipment, provided as a gift under this agreement, shall vest with the Recipient upon the Recipient's written acknowledgement of receipt of the equipment. The acknowledgement shall be provided to (Name of the DOE signatory) at (address).

C. The Recipient will be responsible for any repair and modification costs to any equipment received under this gift.

D. The Recipient hereby releases and agrees to hold the Government, the Department of Energy, or any person acting on behalf of the Department of Energy harmless, to the extent allowable by State law, for any and all liability of every kind and nature whatsoever resulting from the receipt, shipping, installation, operation, handling, use, and maintenance of the education-related and Federal Research equipment provided as a gift under this agreement.

E. The Recipient agrees to use the gift provided herein for the primary purpose of improving the math and science curricula or for the conduct of technical and scientific education and research activities.

F. The Recipient agrees to provide for the return of the equipment if such equipment, while still usable, has not been placed in use for its intended purpose within one year after receipt from the Department of Energy.

_____

(U.S. Department of Energy Office)

_____

(Name and Address of Recipient)

_____

(Signature of HCA or Designee)

_____

(Signature of Official)

_____

(Typed Name)

_____

(Typed Name)

_____

(Typed Title)

_____

(Typed Title)

_____

(Date)

_____

(Date)

(b) The list of gifts that accompanies the Equipment Gift Agreement shall contain the Gift Agreement reference number, name of the eligible recipient, and the name of the DOE office. In addition, the following information shall be provided for each line item provided as a gift: DOE ID number, description (name, manufacturer, model number, serial number, etc.), FSC code, quantity, location, acquisition date, and acquisition cost.

§ 109–50.4802 Personal property eligible for disposal processing under economic development procedures.

The following decision matrix, group listings and REAPS procedures will be used to determine eligibility and to process items of personal property under the economic development procedures set forth in subpart 109–50.3 of this subchapter:

(a) Decision matrix:

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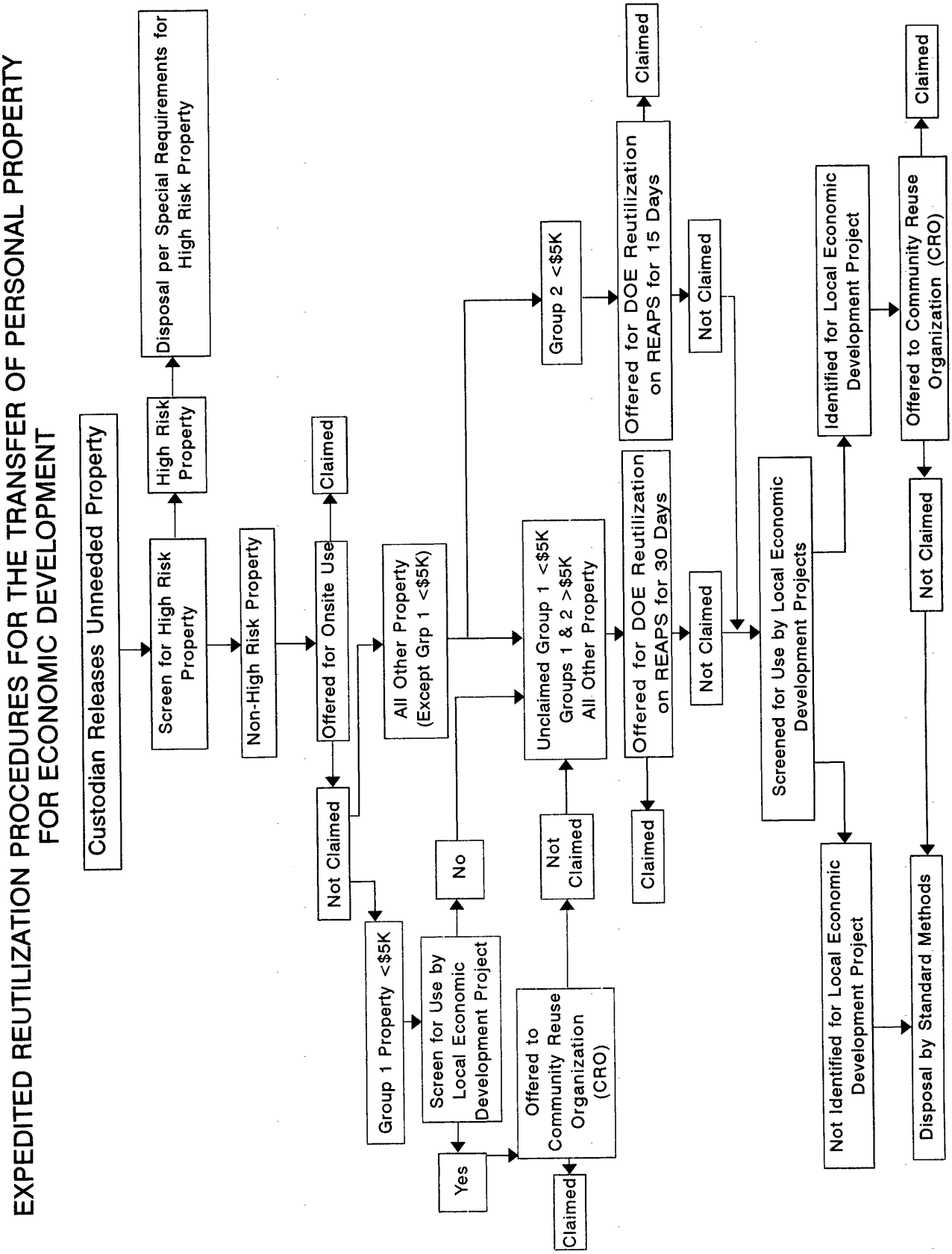

BILLING CODE 6450–01–C

(b) Group 1 Items—Items of personal property which fall in the following FSCGs and have an acquisition cost of less than $5,000 may be determined to be excess by local DOE authority. These items may be transferred, after completion of local screening under REAPS, for economic development under the procedures set forth in subpart 109–50.3 of this subchapter.

FSCG	Description
25	Vehicular Equipment Components.
26	Tires and Tubes.
28	Engines, Turbines, and Components.
29	Engine Accessories.
31	Bearings.
32	Woodworking Machinery and Equipment.
40	Rope, Cable, Chain, and Fittings.
43	Pumps and Compressors.
47	Pipe, Tubing, Hose, and Fittings.
48	Valves.
51	Hand Tools.
52	Measuring Tools.
53	Hardware and Abrasives.
54	Prefabricated Structures and Scaffolding.
55	Lumber, Millwork, Plywood, and Veneer.
56	Construction and Building Materials.
59	Electrical and Electronic Equipment Components.
60	Fiber Optics Materials, Components, Assemblies, and Accessories.
61	Electric Wire, and Power and Distribution Equipment.
62	Lighting Fixtures and Lamps.
67	Photographic Equipment.
69	Training Aids and Devices.
72	Household and Commercial Furnishings and Appliances.
73	Food Preparations and Serving Equipment.
75	Office Supplies and Devices.
76	Books, Maps, and Other Publications.
77	Musical Instruments, Photographs, and Home-Type Radios.
78	Recreational and Athletic Equipment.
79	Cleaning Equipment and Supplies.
80	Brushes, Paints, Sealers, and Adhesives.
81	Containers, Packaging, and Packing Supplies.
83	Textiles, Leather, Furs, Apparel and Shoe Findings, Tents and Flags.
84	Clothing, Individual Equipment and Insignia.
85	Toiletries.
87	Agricultural Supplies.
88	Live Animals.
89	Subsistence.
91	Fuels, Lubricants, Oils, and Waxes.
93	Nonmetallic Fabricated Materials.
94	Nonmetallic Crude Materials.

(c) Group 2 Items—Items of personal property which fall in the following FSCGs and have an acquisition cost of less than $5,000 are subject to a 15-day DOE reutilization screening period before being eligible for transfer for economic development. These items will be entered in REAPS for 15 calendar days. All items considered for transfer for economic development will be in condition code 4 or better.

FSCG	Description
19	Small Craft, Pontoon, and Floating Docks (*Does not include Ships*).
23	Ground Effect Vehicles, Motor Vehicles, Trailers, and Cycles.
24	Tractors.
30	Mechanical Power Transmission Equipment.
34	Metalworking Equipment.
35	Service and Trade Equipment.
36	Special Industry Machinery.
37	Agricultural Machinery and Equipment.
38	Construction, Mining, Excavating, and Highway Maintenance Equipment.
39	Materials Handling Equipment.
41	Refrigeration, Air Conditioning, and Air Circulating Equipment.
42	Fire Fighting, Rescue, and Safety Equipment.
44	Furnace Steam Plant, and Drying Equipment (*Does not include Nuclear Reactors*).
45	Plumbing, Heating, and Sanitation Equipment.
46	Water Purification and Sewage Treatment Equipment.
47	Pipe, Tubing, Hose, and Fittings.
48	Valves.
49	Maintenance and Repair Shop Equipment.
54	Prefabricated Structures and Scaffolding.
56	Construction and Building Materials.
63	Alarm, Signal, and Security Detection Equipment.
65	Medical, Dental and Veterinary Equipment and Supplies.
68	Chemicals and Chemical Products.
70	General Purpose Automatic Data Processing Equipment (including Firmware), Software, Supplies and Support Equipment.
71	Furniture.
72	Household and Commercial Furnishings and Appliances.
73	Food Preparation and Serving Equipment.
74	Office Machines, Text Processing Systems and Visible Record Equipment.
95	Metal Bars, Sheets, and Shapes.
99	Miscellaneous.

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Federal Register

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September 11, 1996

Part III

Department of Housing and Urban Development

24 CFR Parts 582 and 882

Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 582 and 882

[Docket No. FR–3929–F–03]

RIN 2506–AB75

Office of the Assistant Secretary for Community Planning and Development; Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals; Final Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule represents the final rulemaking for three interim rules implementing the Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals. The interim rules clarified program definitions and requirements, conformed the regulations with statutory and other changes, and simplified the application selection and tenant outreach processes by conforming them with the processes used in other HUD-administered competitive McKinney Act programs. This final rule adopts the interim rules as final and includes a discussion of the public comments received on the interim rules. This final rule also further streamlines the regulations by eliminating provisions that are redundant of statutes or are otherwise unnecessary, in accordance with the President's regulatory reform initiatives.

EFFECTIVE DATE: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Maggie H. Taylor, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; (202) 708–4300 (this number is not toll-free). Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals is to provide rental assistance to homeless individuals in rehabilitated SRO housing. Under this program HUD awards assistance through a national competition that focuses on filling gaps identified in locally-developed continuum of care systems for assisting persons who are homeless. The program is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.) (the McKinney Act). HUD published its first final rule for the program in the Federal Register on November 7, 1989 (54 FR 46832).

Since that time, HUD has amended these regulations through three interim rules. Regulations that HUD publishes in interim rules become effective like final rules—30 days after publication in the Federal Register. Unlike final rules, however, interim rules invite the public to comment on their provisions.

The purpose of today's final rule is to adopt as final the provisions of the SRO regulations that were the product of the three interim rules. The preamble of this final rule summarizes the public comments HUD received on each of the three interim rules and provides HUD's responses to the comments as appropriate. This final rule also improves the SRO regulations by clarifying and further streamlining the provisions, as described below.

II. March 15, 1993 Interim Rule

HUD published an interim rule amending the SRO regulations on March 15, 1993 (58 FR 13828). The March 15, 1993 interim rule adopted a standardized funding award process for competitively awarded assistance under the McKinney Act. This process consisted of two stages under which HUD would, after conditionally selecting applicants, require those applicants to submit additional technical information, such as project rent calculations (see § 882.805 (c) and (d) of the interim rule).

The March 15, 1993 interim rule also conformed the SRO program with other McKinney Act programs by removing the provisions requiring that units be leased to homeless individuals referred from a housing authority (HA) waiting list. Instead, the interim rule provided flexibility to HAs and owners by allowing them to engage in outreach efforts to bring homeless individuals into the program, and it provided that vacant units be rented directly to homeless individuals located through these outreach efforts (see § 882.808).

Additionally, the March 15, 1993 interim rule amended the SRO regulations to reflect a statutory amendment permitting an HA to contract with itself to receive SRO assistance for a project that it owns. The rule provided that HA-owners are subject to the same requirements that apply to other owners in the program, and that HUD must approve the base and contract rent calculations for these projects prior to execution of the agreement to enter into a housing assistance payments (HAP) contract and prior to the execution of the HAP contract (see § 882.803(e)).

The March 15, 1993 interim rule also amended §§ 882.802 and 882.805(f)(6) to reflect section 127 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235; approved December 15, 1989), which raised the minimum amount of rehabilitation necessary to qualify a unit for assistance under the program to $3,000 per unit, and which limited the size of projects to no more than 100 assisted units.

Lastly, the interim rule clarified the definition of ''*Single Room Occupancy (SRO) housing*'' in § 882.802, the requirements for using SRO assistance in conjunction with the rehabilitation of efficiency units in the program, and HUD's right to require recipients of assistance to maintain any records and make any reports that HUD requires (see § 882.808(p)).

Summary of Public Comments

The deadline for submitting public comments on the March 15, 1993 interim rule was May 14, 1993. By that date, HUD received comments from three organizations. After considering these comments, which are described below, HUD decided not to make any changes based on these comments in this final rule.

Two-Stage Application Process

All three commenters supported the new two-stage application process (see § 882.805(c) and (d) of the interim rule). As HUD stated in the preamble to the interim rule, under the new process, applicants submitting proposals that were not conditionally selected for funding would not have to incur the costs of addressing technical issues, such as securing financial commitments from other sources, only to have HUD reject their applications.

HUD Response: The two-stage application process has been in effect for three years, and HUD believes the process has been successful in reducing the burden on applicants and in providing conditionally selected applicants with the opportunity to receive ongoing HUD assistance in meeting the technical submission requirements.

Conformance with Other McKinney Act Programs

The commenters supported the provisions of the March 15, 1993 interim rule that conformed the SRO program with the other McKinney Act

programs. The commenters especially supported the interim rule's requirement that HAs or owners engage in outreach efforts to bring homeless individuals into the program, rather than using HA waiting lists (see § 882.808). One commenter noted that the new outreach process would be a more efficient process for locating homeless individuals.

HUD Response: As indicated in the preamble to the interim rule, private nonprofit organizations, HAs, and project owners had expressed to HUD that the HA waiting list was an impractical method of locating homeless individuals for participation in the program, given the transient nature of many of these individuals. HUD is pleased that commenters supported the increased flexibility that the rule provided to them.

Records and Reports

The commenters supported the interim rule's requirement in § 882.808(p) that each recipient of assistance under this program maintain any records and make any reports that HUD may require.

HUD Response: HUD has used this authority to implement annual progress reporting requirements in the SRO program similar to those used in other HUD-administered McKinney Act programs. The goal of these reports is to provide recipients the opportunity to demonstrate the progress they are making in areas such as increasing the skills and income of program participants.

Private Nonprofit Organizations as Direct Applicants

The preamble to the March 15, 1993 interim rule noted that section 1405 of the Housing and Community Development Act of 1992 (42 U.S.C. 11399) amended the SRO program, providing in part that private nonprofit organizations could apply directly for SRO assistance. Although the interim rule did not change the regulations to reflect this amendment, one commenter questioned whether HUD would scrutinize these nonprofit organizations as thoroughly as it scrutinizes housing authorities. This commenter also expressed concern that HUD was leading these organizations to believe they could apply for public housing administration or Section 8 program administration funds.

HUD Response: HUD has used the ability of the applicant to develop and operate a project as a rating criterion for applications. Under this criterion, HUD subjects HAs and private nonprofit applicants to the same scrutiny. Additionally, the statutory provision allowing private nonprofit organizations to apply for assistance, and HUD's subsequent implementation of this provision (see the discussion of the February 14, 1996 interim rule, below), clearly only apply to the SRO program.

Definition of ''Single Room Occupancy (SRO) Housing''

All of the commenters supported the March 15, 1993 interim rule's revision of the definition of *''Single room occupancy (SRO) housing''* in § 882.802 to include units with or without food preparation or sanitary facilities. One commenter suggested that HUD expand the program to include units that could accommodate more than one person, since families are now a large proportion of the homeless population.

HUD Response: According to section 441 of the McKinney Act, HUD may only provide assistance for SRO units occupied by single homeless individuals. The legislative history of section 441 of the McKinney Act, which HUD recounts in the first final rule for the SRO program published in the Federal Register on November 7, 1989 (54 FR 46828), clearly indicates that Congress intended that assistance under this program only be used for single homeless individuals, and not multiperson families.

While there is no statutory authority to provide assistance to homeless families under the SRO program, these families can receive assistance under other McKinney Act programs, including the Supportive Housing program (24 CFR part 583) and the Shelter Plus Care program (24 CFR part 582).

Efficiency Units

The March 15, 1993 interim rule amended § 882.805(g)(4) to clarify that SRO program assistance may be used for efficiency units, but the gross rent for these units will be no higher than for SRO units. One commenter recommended that HUD amend the paragraph even further to provide that contract rents should include service-related hard costs, such as those related to the creation of office and meeting space. The commenter also suggested HUD include in this paragraph a list of reasonable service-related hard costs that could be included in contract rents.

HUD Response: HUD has described in detail the provisions on eligible and ineligible costs in the technical assistance book on the SRO program that HUD issues each year. HUD believes that repeating these detailed provisions in the regulations would unnecessarily complicate the regulations, and that such repetition would be inconsistent with the President's regulatory reform initiatives (described below in this preamble, under the heading ''Regulatory Reform'').

On a substantive level, the technical assistance book indicates that rehabilitation of space that will be used to provide supportive services to program participants is an eligible program cost. The costs of providing the supportive services, however, is not an eligible cost.

III. May 10, 1994 Interim Rule

HUD published an interim rule on May 10, 1994 (59 FR 24252) that amended the SRO program application and funding award provisions by removing some of the descriptive information and providing that this information will appear in the annual notices of funding availability (NOFAs). The interim rule also amended the regulations to clarify when Comprehensive Housing Affordability Strategy (CHAS) certifications must be made. The deadline for public comments on the May 10, 1994 interim rule was July 11, 1994. HUD has not received any comments on the rule. Today's rule will adopt as final these amendments to the SRO program regulations, as well as similar amendments to the Shelter Plus Care program in § 582.200 that also were included in the May 10, 1994 interim rule. (The May 10, 1994 interim rule also amended the Supportive Housing program in § 583.200; this portion of the interim was adopted as final in a rule published on July 19, 1994 (59 FR 36886)). However, while this rule adopts these amendments as final, it also streamlines the regulations as part of the President's regulatory reform initiatives. This streamlining is described below, in the ''Regulatory Reform'' section of this preamble.

IV. February 14, 1996 Interim Rule

HUD published a third interim rule amending the SRO regulations on February 14, 1996 (61 FR 5850). The February 14, 1996 interim rule eliminated most of the remaining provisions on the required use of HA waiting lists, in conformance with the March 15, 1993 interim rule, described above. The February 14, 1996 interim rule also clarified the role of HAs in helping to identify homeless individuals during the outreach process (§ 882.808(a)(1)).

The February 14, 1996 interim rule also conformed the regulations with section 1405 of the Housing and Community Development Act of 1992,

which amended the Stewart B. McKinney Homeless Assistance Act. This statutory amendment included a requirement for the participation of homeless individuals in considering and making policies and decisions regarding rehabilitation of structures receiving assistance under the SRO program, and for the involvement of homeless individuals in the rehabilitation and operation of these structures. The interim rule included this requirement in § 882.808(q).

The statutory amendment also provided that private nonprofit organizations can apply directly for SRO assistance. Prior to this amendment, HAs were the only eligible applicants under the program. To implement this change, the interim rule added definitions of *''Applicant''* and *''Private nonprofit organization''* in § 882.802.

The February 14, 1996 interim rule also conformed the program regulations with the environmental review procedures in 24 CFR part 58. The Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233; approved April 11, 1994) made these procedures applicable to the SRO program, and HUD published implementing regulations in the Federal Register on March 13, 1995 (60 FR 13518). Under part 58, HAs (including HAs that administer programs for nonprofit applicants) must obtain an agreement with the responsible entity designated under part 58 for the performance of environmental reviews.

Additionally, the interim rule revised the provision on project eligibility in § 882.803(a)(2) to provide that housing is ineligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs. Under this revised standard, there is no restriction on the use of other Federal funding for acquisition and rehabilitation costs. HUD has successfully used this clearer, less restrictive standard in its Shelter Plus Care program.

The February 14, 1996 interim rule also eliminated an obsolete date reference in the provision for determining the maximum amount of rehabilitation allowable in the program (§ 882.805(g)(1)(ii)(A) of the interim rule) so that more recent data can be used.

Finally, the interim rule corrected an error in a final rule on relocation and displacement requirements published in the Federal Register on June 6, 1994 (59 FR 29326). The June 6, 1994 rule, which conformed HUD's regulations with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and its implementing regulations in 49 CFR part 24, added § 882.810 and intended to remove much of § 882.803(d). However, the most recent codification of part 882 (April 1, 1995) included all of § 882.803(d). Therefore, in order to correct the error, the February 14, 1996 interim rule removed much of § 882.803(d).

Summary of Public Comments

The deadline for submitting public comments on the February 14, 1996 interim rule was April 15, 1996. By that date, HUD received comments from two organizations. After considering these comments, which are described below, HUD has decided not to make any changes to the interim rule.

Start-Up Costs

A commenter that administers this program for units owned by a nonprofit organization remarked that start-up costs can be an obstacle, primarily because filling all the units is difficult when the individuals to be served by the program are transient. The commenter stated that until a project reaches 100 percent occupancy, the owners have to rely on the maximum allowable rents for the occupied units, plus 80 percent of the contract rent for vacant units. The commenter maintained that this is insufficient to cover start-up costs, and that HUD should provide another way for nonprofit organizations to survive early cash flow problems.

HUD Response: Under § 882.808(f), if a unit that has been rehabilitated in accordance with HUD requirements is not leased within 15 days of the effective date of the HAP contract, owners may receive housing assistance payments in the amount of 80 percent of the contract rent for the unit for a vacancy period not exceeding 60 days from the effective date of the HAP contract. Maintaining this 60-day provision is reasonable. The SRO program is designed to serve homeless individuals, many of whom are living on the streets and in shelters. These individuals need the permanent housing the SRO program provides as quickly as possible. The current regulations provide assistance to owners who need a reasonable period of time to lease the SRO units, while simultaneously creating an incentive to lease the units at the earliest possible date.

Elimination of Waiting Lists

Another commenter remarked on the February 14, 1996 interim rule's removal of most of the remaining provisions for waiting lists, requiring instead that HAs or owners engage in outreach efforts. This commenter requested additional guidance for situations in which the outreach efforts fail to produce eligible individuals. This commenter also worries that discarding waiting lists could have a disparate impact on the young, the aged, or the disabled.

HUD Response: The SRO regulations (§ 882.808(a)(2)) require that if the outreach procedures the HA or owner intends to use are unlikely to reach persons of any particular age, physical or mental handicap, race, color, religion, sex, or national origin, the HA or owner must establish additional procedures that will ensure such persons are made aware of the availability of the program. Additionally, § 882.808(a)(1) requires owners to notify HAs when they conduct the outreach effort, so that the HA may provide referrals of homeless individuals (including referrals from any waiting list maintained by the HA). These provisions ensure that all individuals, including those individuals listed by the commenter, are treated equally in the program. Lastly, additional guidance on the tenant outreach process is contained in the SRO technical assistance book.

This final rule also removes one last reference to the procedures for establishing waiting lists, which was included in the contents of the Administrative Plan (§ 882.805(b)(1)(ii)).

Participation of Homeless Individuals

Although the February 14, 1996 interim rule required that private nonprofit applicants include at least one homeless individual or formerly homeless individual in their decisions regarding the rehabilitation of the SRO housing, one commenter remarked that the rule still reflects an underrepresentation of homeless individuals in the decisionmaking process, especially since HAs are exempt from even this minimal requirement. The commenter expressed concern about HAs or other entities that focus on the interests of suburbia or business, rather than those of homeless individuals.

This commenter applauded the involvement of homeless individuals in the rehabilitation efforts and in providing services to the occupants, and requested HUD to encourage any such employment initiative by HAs, especially within the SRO facility.

HUD Response: Section 1405 of the Housing and Community Development Act of 1992 provides that each approved applicant that is not an HA must provide for the participation of not less than one homeless individual or

formerly homeless individual on its board of directors or other equivalent policymaking entity to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any SRO housing. Thus, the statute specifically exempts HAs from this requirement.

HUD shares the commenter's view that homeless individuals should be involved in the SRO decisionmaking process. Thus, the 1996 Continuum of Care application (which covers assistance under the SRO, Shelter Plus Care, and Supportive Housing programs) requires that applicants describe how they will involve homeless participants in project decisionmaking and operations. Additionally, the application requires that an applicant describe the involvement of homeless and formerly homeless individuals in the development of a jurisdiction's continuum of care strategy (see Fiscal Year 1996 Continuum of Care NOFA, published on March 15, 1996 (61 FR 10866)).

Private Nonprofit Organizations as Eligible Applicants

One commenter applauded the eligibility of private nonprofit organizations as applicants under the SRO program. The commenter explained that nonprofit organizations may be better equipped in some areas to serve the homeless population, because they are community-based and may have stronger neighborhood support.

HUD Response: HUD agrees that providing for private nonprofit applicants in the SRO program enhances the critical role these organizations play in developing a continuum of care strategy for assisting homeless individuals and in implementing that strategy.

V. Regulatory Reform

In response to Executive Order 12866 and President Clinton's memorandum of March 4, 1995 to all Federal departments and agencies on the subject of regulatory reinvention, HUD has reviewed all its regulations to determine whether certain regulations can be eliminated, streamlined, or consolidated with other regulations. While the interim rules described above were successful in eliminating many obsolete provisions, and in updating and significantly streamlining certain requirements, HUD determined that the SRO regulations can be further streamlined.

This final rule, in addition to adopting the previous interim rules as final, further streamlines and clarifies the SRO regulations as follows:

(a) It streamlines the definition of *''Homeless individual''* in § 882.802. This definition simply repeated the language contained in section 103 of the McKinney Act. This rule also revises the definition of *''Statement of family responsibility''*, by changing the term ''family'' to ''individual.'' Since HUD can only serve eligible individuals under this program, using the term ''individual'' will help eliminate confusion.

(b) It removes the definition of *''Supportive services,''* which largely consisted of a listing of items that may be considered supportive services. HUD can more appropriately provide such guidance in the SRO technical assistance book.

(c) It eliminates § 882.803(b)(5). This provision is repetitive of the definition of *''Single room occupancy (SRO) housing''* in § 882.802—a unit for occupancy by one person, which need not but may contain food preparation or sanitary facilities, or both.

(d) It revises and updates § 882.804 regarding other Federal requirements. Part of this section repeats information already provided in 24 CFR part 5. This rule will provide a cross-reference to part 5, and it will also refer to the Americans with Disabilities Act, compliance with which is required under the SRO program.

(e) It removes information from § 882.805 regarding the application requirements and criteria for rating applications, which HUD will more appropriately provide in the annual NOFA.

(f) It removes the obsolete reference in § 882.805(b) to the requirement of submitting an Equal Opportunity Housing Plan. In July 1995, HUD merged the contents of this plan into the Administrative Plan, which is also listed in § 882.805(b). Therefore, while HAs must still submit the contents of an Equal Opportunity Housing Plan as part of the Administrative Plan, it is inaccurate for the regulations to list it as a separate requirement.

(g) It consolidates the lengthy description of displacement and relocation requirements in § 882.810. These requirements are nearly identical to those in § 882.406. Since it is unnecessary to duplicate these requirements within the same part of the Code of Federal Regulations, this rule amends § 882.406 so that it also applies to the SRO program. This rule then removes the provisions of § 882.810 and replaces them with a reference to § 882.406. In this streamlining of §§ 882.406 and 882.810, HUD is not making any substantive changes to the requirements, but is merely eliminating unnecessary provisions.

As part of HUD's regulatory reform efforts, HUD consolidated some of the requirements in § 882.102 (which contains definitions for the Section 8 Certificate and Moderate Rehabilitation programs) and the provisions in 24 CFR part 812 (which contained the definition of ''Family'' and the restrictions on assistance to noncitizens) into 24 CFR part 5. Part 5 now contains most of HUD's general program requirements. HUD also consolidated the requirements in 24 CFR part 12 regarding accountability in the provision of HUD assistance into 24 CFR part 4. This final rule updates the references to all these requirements in the SRO regulations.

VI. Other Matters

Environmental Impact

This rule does not in itself have an environmental impact. This rule merely adopts effective interim regulations as final and amends existing regulations by streamlining provisions; it does not alter the environmental effect of the regulations being amended. At the time of development of regulations in part 882, subpart H, and for each of the three interim rules discussed above, Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The findings remain applicable to this rule, and are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Executive Order 12606, The Family

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being. This rule merely adopts effective interim regulations as final and eliminates unnecessary provisions, and does not change the substance of the program's regulations. Therefore, this rule is not subject to review under the order.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has

determined that the policies in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule is limited to adopting effective interim regulations as final and eliminating unnecessary provisions. Therefore, the rule is not subject to review under the order.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that it does not have a significant economic impact on a substantial number of small entities. Specifically, the rule is limited to adopting effective interim regulations as final and eliminating unnecessary provisions.

List of Subjects

24 CFR Part 582

Homeless, Rent subsidies, Reporting and recordkeeping requirements, Supportive housing programs—housing and community development, Supportive services.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the interim rule amending 24 CFR part 882, which was published at 58 FR 13828 on March 15, 1993; the interim rule amending 24 CFR parts 582 and 882, which was published at 59 FR 24252 on May 10, 1994; and the interim rule amending 24 CFR part 882, which was published at 61 FR 5850 on February 14, 1996; are adopted as final rules, with the following changes:

PART 882—SECTION 8 CERTIFICATE AND MODERATE REHABILITATION PROGRAMS

1. The authority citation for 24 CFR part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. Section 882.406 is revised to read as follows:

§ 882.406 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* (1) Consistent with the other goals and objectives of this part, owners must assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the project upon its completion.

(2) Whenever a building/complex is rehabilitated, and some but not all of the rehabilitated units will be assisted upon completion of the rehabilitation, the relocation requirements described in this section apply to the occupants of each rehabilitated unit, whether or not Section 8 assistance will be provided for the unit.

(b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation;

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the project upon completion; and

(iv) The assistance required under paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* A ''displaced person'' (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations in 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601–19) and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority is located in an area of minority concentration, such person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(d) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(e) *Appeals.* A person who disagrees with the HA's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the HA. A person who is dissatisfied with the HA's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(f) *Responsibility of HA.* (1) The HA must certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that it will comply with the URA, the regulations in 49 CFR part 24, and the requirements of this section, and must ensure such compliance notwithstanding any third party's contractual obligation to the HA to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs may be paid for with local public funds or funds available from other sources. The cost of HA advisory services for temporary relocation of tenants to be assisted under the program also may be paid from preliminary administrative funds.

(3) The HA must maintain records in sufficient detail to demonstrate compliance with the provisions of this section. The HA must maintain data on the racial, ethnic, gender, and disability status of displaced persons.

(g) *Definition of displaced person.* (1) For purposes of this section, the term *displaced person* means a person (household, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. The term *displaced person* includes, but may not be limited to:

(i) A person who moves permanently from the real property after receiving notice requiring such move, if the move occurs on or after the date the owner submits to the HA the owner proposal that is later approved;

(ii) A person, including a person who moves from the property before the date the owner submits the proposal to the HA, if the HA or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or

(iii) A tenant-occupant of a dwelling unit who moves from the building/complex

permanently after the execution of the Agreement between the owner and the HA (or, for projects assisted under subpart H of this part, after the ''initiation of negotiations'' (see paragraph (h) of this section)), if the move occurs before the tenant is provided a written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon its completion. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant's monthly rent before the execution of the agreement and estimated average monthly utility costs; or

(B) Thirty percent of gross household income.

(C) For projects assisted under subpart H of this part, the amount cannot exceed the greater of the tenant's monthly rent before the ''initiation of negotiations'' and estimated average monthly utility costs; or (if the tenant is low-income) the total tenant payment, as determined under 24 CFR 813.107, or (if the tenant is not low-income) 30 percent of gross household income; or

(iv) A tenant-occupant of a dwelling, who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or

(B) Other conditions of the temporary relocation are not reasonable; or

(v) A tenant-occupant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another dwelling unit in the building/complex, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a displaced person (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local law, or other good cause, and the HA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the preliminary proposal (or application, if there is no preliminary proposal), and before signing a lease and commencing occupancy, received written notice of the project and its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a displaced person (or for any assistance provided under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The HA may request, at any time, HUD's determination of whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of private-owner rehabilitation or demolition of the real property, the term *initiation of negotiations* means the execution of the Agreement between the owner and the HA.

(Approved by Office of Management and Budget under OMB control number 2506–0121).

3. Subpart H is revised to read as follows:

Subpart H—Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

Sec.

882.801 Purpose.
882.802 Definitions.
882.803 Project eligibility and other requirements.
882.804 Other Federal requirements.
882.805 HA application process, ACC execution, and pre-rehabilitation activities.
882.806 Agreement to enter into housing assistance payments.
882.807 Housing assistance payments contract.
882.808 Management.
882.809 Waivers.
882.810 Displacement, relocation, and acquisition.

Subpart H—Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

§ 882.801 Purpose.

The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The Section 8 assistance is in the form of rental assistance payments. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.).

§ 882.802 Definitions.

In addition to the definitions set forth in 24 CFR part 5 and § 882.102 (except for the definition of ''*Single Room Occupancy (SRO) Housing*'' therein) the following will apply:

Agreement to enter into housing assistance payments contract (Agreement). A written agreement between the owner and the HA that, upon satisfactory completion of the rehabilitation in accordance with requirements specified in the Agreement, the HA will enter into a housing assistance payments contract with the owner.

Applicant. A public housing agency or Indian housing authority (collectively referred to as HAs), or a private nonprofit organization that applies for assistance under this program. HUD will require private nonprofit applicants to subcontract with public housing agencies to administer their rental assistance.

Eligible individual (individual). An individual who, taking into account the supportive services available to the individual, is capable of independent living and is authorized for admission to assisted housing under subparts D and E of 24 CFR part 5, and 24 CFR part 813.

Homeless individual. An individual as described in section 103 of the McKinney Act (42 U.S.C. 11302).

McKinney Act. The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

Moderate rehabilitation. Rehabilitation involving a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade to decent, safe, and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below those standards (improvements being of a modest nature and other than routine maintenance).

Private nonprofit organization. An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual. The organization must:

(1) Have a voluntary board;

(2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(3) Practice nondiscrimination in the provision of assistance.

Single room occupancy (SRO) housing. A unit for occupancy by one person, which need not but may contain food preparation, sanitary facilities, or both.

Statement of individual responsibility. An agreement, in the form prescribed by HUD, between the HA and an individual to be assisted under the program, stating the obligations and responsibilities of the two parties.

§ 882.803 Project eligibility and other requirements.

(a) *Eligible and ineligible properties.* (1) Except as otherwise provided in paragraph (a) of this section, housing suitable for moderate rehabilitation is eligible for inclusion under this program. Existing structures of various types may be appropriate for this program, including single family houses and multifamily structures.

(2) Housing is not eligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs.

(3) Nursing homes and related facilities such as intermediate care or board and care homes; units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions; and facilities providing continual psychiatric, medical, or nursing services are not eligible for assistance under this program.

(4) No Section 8 assistance may be provided with respect to any unit occupied by an owner.

(5) Housing located in the Coastal Barrier Resources System designated under the Coastal Barriers Resources Act is not eligible.

(6) Single-sex facilities are allowable under this program, provided that the HA determines that because of the physical limitations or configuration of the facility, considerations of personal privacy require that the facility (or parts of the facility) be available only to members of a single sex.

(b) *Housing quality standards.* Section 882.404 (including its incorporation by reference of § 882.109) applies to this program, except as follows:

(1) The housing quality standards in §§ 882.109(i) and 882.404(c) concerning lead-based paint do not apply to this program, since these SRO units will not house children.

(2) In addition to the performance requirements contained in § 882.109(p) concerning SRO units, a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as State or local law may require must be installed in each building. The term ''*major spaces*'' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

(3) Section 882.109(q), concerning shared housing, does not apply to this program.

(4) Section 882.404(b), concerning site and neighborhood standards, does not apply to this program, except that § 882.404(b) (1) and (2) applies. In addition, the site must be accessible to social, recreational, educational, commercial, and health facilities, and other appropriate municipal facilities and services.

(c) *Financing.* Section 882.405 applies to this program.

(d) *Relocation.* Section 882.406 applies to a project assisted under this program.

(e) *HA-owned housing.* (1) A unit that is owned by the HA that administers the assistance under the ACC (including a unit owned by an entity substantially controlled by the HA) may only be assisted if:

(i) The unit is not ineligible under § 882.803(a); and

(ii) HUD approves the base and contract rent calculations prior to execution of the Agreement and prior to execution of the HAP contract.

(2) The HA as owner is subject to the same program requirements that apply to other owners in the program.

§ 882.804 Other Federal requirements.

(a) Participation in this program requires compliance with the Federal requirements set forth in 24 CFR 5.105, and with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

(b) For agreements covering nine or more assisted units, the following requirements for labor standards apply:

(1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a through 276a–5), must be paid to all laborers and mechanics employed in the development of the project, other than volunteers under the conditions set out in 24 CFR part 70;

(2) The employment of laborers and mechanics is subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333); and

(3) HAs, owners, contractors, and subcontractors must comply with all related rules, regulations, and requirements.

(c) The environmental review requirements of 24 CFR part 58, implementing the National Environmental Policy Act and related environmental laws and authorities, apply to this program.

§ 882.805 HA application process, ACC execution, and pre-rehabilitation activities.

(a) *Review.* When funds are made available for assistance, HUD will publish a notice of funding availability (NOFA) in the Federal Register in accordance with the requirements of 24 CFR part 4. HUD will review and screen applications in accordance with the guidelines, rating criteria, and procedures published in the NOFA.

(b) *ACC Execution.* (1) Before execution of the annual contributions contract (ACC), the HA must submit to the appropriate HUD field office the following:

(i) Estimates of Required Annual Contributions, Forms HUD–52672 and HUD–52673;

(ii) Administrative Plan, which should include:

(A) Procedures for tenant outreach;

(B) A policy governing temporary relocation; and

(C) A mechanism to monitor the provision of supportive services.

(iii) Proposed Schedule of Allowances for Tenant-Furnished Utilities and Other Services, Form HUD–52667, with a justification of the amounts proposed;

(iv) If applicable, proposed variations to the acceptability criteria of the Housing Quality Standards (see § 882.803(b)); and

(v) The fire and building code applicable to each structure.

(2) After HUD has approved the HA's application, the review and comment requirements of 24 CFR part 791 have been complied with, and the HA has submitted (and HUD has approved) the items required by paragraph (b)(1) of this section, HUD and the HA must execute the ACC in the form prescribed by HUD. The initial term of the ACC must be 11 years. This term allows one year to rehabilitate the units and place them under a 10-year HAP contract. The ACC must give HUD the option to renew the ACC for an additional 10 years.

(3) Section 882.403(a) (Maximum Total ACC Commitments) applies to this program.

(4) Section 882.403(b) (Project account) applies to this program.

(c) *Project development.* Before execution of the Agreement, the HA must:

(1)(i) Inspect the structure to determine the specific work items that need to be accomplished to bring the units to be assisted up to the Housing Quality Standards (see § 882.803(b)) or other standards approved by HUD;

(ii) Conduct a feasibility analysis, and determine whether cost-effective energy conserving improvements can be added;

(iii) Ensure that the owner prepares the work write-ups and cost estimates required by § 882.504(f); and

(iv) Determine initial base rents and contract rents;

(2) Assure that the owner has selected a contractor in accordance with § 882.504(g);

(3) After the financing and a contractor are obtained, determine whether the costs can be covered by initial contract rents, computed in accordance with paragraph (d) of this section; and, if a structure contains more than 50 units to be assisted, submit the base rent and contract rent calculations to the appropriate HUD field office for review and approval in sufficient time for execution of the Agreement in a timely manner;

(4) Obtain firm commitments to provide necessary supportive services;

(5) Obtain firm commitments for other resources to be provided;

(6) Determine that the $3,000 minimum amount of work requirement and other requirements in § 882.504(c)(2) and (3) are met;

(7) Determine eligibility of current tenants, and select the units to be assisted, in accordance with § 882.504(e);

(8) Comply with the financing requirements in § 882.504(i);

(9) Assure compliance with all other applicable requirements of this subpart; and

(10) In the event that the HA determines that any structure proposed in its application is infeasible, or the HA proposes to select a different structure for any other reason, the HA must submit information for the proposed alternative structure to HUD for review and approval. HUD will rate the proposed structure in accordance with procedures in the applicable notice of funding availability. The HA may not proceed with processing for the proposed structure or execute an Agreement until HUD notifies the HA that HUD has approved the proposed alternative structure and that all requirements have been met.

(d) *Initial contract rents.* Section 882.408 (Initial contract rents), including the establishment of fair market rents for SRO units at 75 percent of the O-bedroom Moderate Rehabilitation Fair Market Rent, applies to this program, except as follows:

(1)(i) In determining the monthly cost of a rehabilitation loan, in accordance with § 882.408(c)(2), a loan term of a least 10 years (instead of 15 years) may be used. The exception in § 882.408(c)(2)(iii) for using the actual loan term if the total amount of the rehabilitation is less than $15,000 continues to apply. In addition, the cost of the rehabilitation that may be included for the purpose of calculating the amount of the initial contract rent for any unit must not exceed the lower of:

(A) The projected cost of rehabilitation; or

(B) The per unit cost limitation that is established by Federal Register notice, plus the cost of the fire and safety improvements required by § 882.803(b)(2). HUD may, however, increase the limitation in paragraph (d)(1)(i)(B) of this section by an amount HUD determines is reasonable and necessary to accommodate special local conditions, including high construction costs or stringent fire or building codes. HUD will publish future cost limitation changes in the Federal Register in the Notice of Funding Availability issued each year.

(ii) If the Federal Housing Administration (FHA) believes that high construction costs warrant an increase in the per unit cost limitation in paragraph (d)(1)(i)(B) of this section, the HA must demonstrate to HUD's satisfaction that a higher average per unit amount is necessary to conduct this program, and that every appropriate step has been taken to contain the amount of the rehabilitation within the published per unit cost limitation established at that time, plus the cost of the required fire and safety improvements. These higher amounts will be determined as follows:

(A) HUD may approve a higher per unit amount up to, but not to exceed, an amount computed by multiplying the HUD-approved High Cost Percentage for Base Cities (used for computing FHA high cost area adjustments) for the area, by the current published cost limitation plus the cost of the required fire and safety improvements.

(B) HUD may, on a structure-by-structure basis, increase the level approved in paragraph (d)(1)(i) of this section to up to an amount computed by multiplying 2.4 by the current published cost limitation plus the cost of the required fire and safety improvements.

(2) In approving changes to initial contract rents during rehabilitation in accordance with § 882.408(d), the revised initial contract rents may not reflect an average per unit rehabilitation cost that exceeds the limitation specified in paragraph (d)(1) of this section.

(3) If the structure contains four or fewer SRO units, the Fair Market Rent for that size structure (the Fair Market Rent for a 1–, 2–, 3–, or 4–bedroom unit, as applicable) must be used to determine the Fair Market Rent limitation instead of using the separate Fair Market Rent for each SRO unit. To determine the Fair Market Rent limitation for each SRO unit, the Fair Market Rent for the structure must be apportioned equally to each SRO unit.

(4) Contract rents must not include the costs of providing supportive services, transportation, furniture, or other nonhousing costs, as determined by HUD. SRO program assistance may be used for efficiency units selected for rehabilitation under this program, but the gross rent (contract rent plus any Utility Allowance) for these units will be no higher than for SRO units (i.e., 75 percent of the 0-bedroom Moderate Rehabilitation Fair Market Rent).

(Approved by the Office of Management and Budget under control number 2506–0131)

§ 882.806 Agreement to enter into housing assistance payments.

(a) *Rehabilitation period.* (1) *Agreement.* Before the owner begins any rehabilitation, the HA must enter into an Agreement with the owner in the form prescribed by HUD.

(2) *Timely performance of work.* Section 882.506(a) applies to this program. In addition, the Agreement must provide that the work must be completed and the contract executed within 12 months of execution of the ACC. HUD may reduce the number of units or the amount of the annual contribution commitment if, in HUD's determination, the HA fails to demonstrate a good faith effort to adhere to this schedule or if other reasons justify reducing the number of units.

(3) *Inspections.* Section 882.506(b) applies to this program.

(4) *Changes.* Section 882.506(c)(1) applies to this program. Contract rents may not be increased except in accordance with §§ 882.408(d) and 882.805(d)(2).

(b) *Completion of rehabilitation.* (1) *Notification of completion.* Section 882.507(a) applies to this program.

(2) *Evidence of completion.* Section 882.507(b) applies to this program, except that § 882.507(b)(2)(iv), concerning lead-based paint requirements, does not apply.

(3) *Actual cost and rehabilitation loan certifications.* Section 882.507(c) applies

to this program, except that contract rents must be established in accordance with § 882.805(d).

(4) *Review and inspections.* Section 882.507(d) applies to this program.

(5) *Acceptance.* Section 882.507(e) applies to this program.

(Approved by the Office of Management and Budget under control number 2502–0367)

§ 882.807 Housing assistance payments contract.

(a) *Time of execution of contract.* Section 882.508(a) applies to this program.

(b) *Term of contract.* The contract for any unit rehabilitated in accordance with this program must be for a term of 10 years. The contract must give the HA the option to renew the contract for an additional 10 years.

(c) *Changes in contract rents from agreement.* The contract rents may be higher or lower than those specified in the Agreement, in accordance with § 882.805(d).

(d) *Unleased units.* Section 882.508(c) applies to this program.

(e) *Contract rents at end of rehabilitation loan term.* For a contract in which the initial contract rent was based upon a loan term shorter than 10 years, the contract must provide for reduction of the contract rent effective with the rent for the month following the end of the term of the rehabilitation loan. The amount of the reduction will be the monthly cost of amortization of the rehabilitation loan. This reduction should result in a new contract rent equal to the base rent plus all subsequent adjustments.

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§ 882.808 Management.

(a) *Outreach to homeless individuals and appropriate organizations.* (1) The HA or the owner must undertake outreach efforts to homeless individuals so that they may be brought into the program. The outreach effort should include notification to emergency shelter providers and other organizations that could provide referrals of homeless individuals. If the owner conducts the outreach effort, the owner must notify the HA so that it may provide referrals of homeless individuals.

(2) *Additional outreach concerns.* If the procedures that the HA or owner intends to use to publicize the availability of this program are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, or mental or physical disability who may qualify for admission to the program, the HA or owner must establish additional procedures that will ensure that such persons are made aware of the availability of the program. The HA or owner must also adopt and implement procedures to ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to persons with disabilities.

(3) *First priority for homeless individuals.* Homeless individuals must have the first priority for occupancy of housing rehabilitated under this program.

(b) *Individual participation.* (1) *Initial determination of individual eligibility.* Section 882.514(a) applies to this program.

(2) *Owner selection of individuals.* The owner must rent all vacant units under contract to homeless individuals located through HA or owner outreach efforts and determined by the HA to be eligible. The owner is responsible for tenant selection and may refuse any individual, provided the owner does not unlawfully discriminate. If the owner rejects an individual, and the individual believes that the owner's rejection was the result of unlawful discrimination, the individual may request the assistance of the HA in resolving the issue and may also file a complaint with HUD's Office of Fair Housing and Equal Opportunity in accordance with 24 CFR 103.25. If the individual requests the assistance of the HA, and if the HA cannot resolve the complaint promptly, the HA should advise the individual that he or she may file a complaint with HUD, and provide the individual with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

(3) *Briefing of individuals.* Section 882.514(d) applies to this program, except that § 882.514(d)(1)(vi) does not apply.

(4) *Continued participation of individual when contract is terminated.* Section 882.514(e) applies to this program, except that the HA may issue a Housing Voucher instead of a Certificate.

(5) *Individuals determined by the HA to be ineligible.* Section 882.514(f) applies to this program. In addition, individuals are not precluded from exercising other rights if they believe they have been discriminated against on the basis of age.

(c) *Lease.* (1) *Contents of lease.* Section 882.504(j) applies to this program. In addition, the lease must limit occupancy to one eligible individual.

(2) *Term of lease.* Section 882.403(d) applies to this program.

(d) *Security and utility deposits.* Section 882.112 applies to this program.

(e) *Rent adjustments.* Section 882.410 applies to this program.

(f) *Payments for vacancies.* Section 882.411 applies to this program.

(g) *Subcontracting of owner services.* Section 882.412 applies to this program.

(h) *Responsibility of the individual.* Section 882.413 applies to this program.

(i) *Reexamination of individual income.* (1) *Regular reexaminations.* The HA must reexamine the income of all individuals at least once every 12 months. After consultation with the individual and upon verification of the information, the HA must make appropriate adjustments in the Total Tenant Payment in accordance with 24 CFR part 813, and verify that only one individual is occupying the unit. The HA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At each regular reexamination, the HA must follow the requirements of 24 CFR part 5, subpart E concerning verification of immigration status of any new family member.

(2) *Interim reexaminations.* The individual must supply such certification, release, information, or documentation as the HA or HUD determines to be necessary, including submissions required for interim reexaminations of individual income and determinations as to whether only one person is occupying the unit. In addition, the second and third sentences of § 882.515(b) apply. At any interim reexamination when there is a new family member, the HA must follow the requirements of 24 CFR part 5, subpart E concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

(3) *Continuation of Housing Assistance Payments.* Section 882.515(c) applies to this program.

(j) *Overcrowded units.* If the HA determines that anyone other than, or in addition to, the eligible individual is occupying an SRO unit assisted under this program, the HA must take all necessary action, as soon as reasonably feasible, to ensure that the unit is occupied by only one eligible individual.

(k) *Adjustment of utility allowance.* Section 882.510 applies to this program.

(l) *Termination of tenancy.* Section 882.511 applies to this program. For provisions requiring termination of assistance when the HA determines that a family member is not a U.S. citizen or does not have eligible immigration status, see 24 CFR part 5, subpart E for provisions concerning certain assistance

for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, or for provisions concerning deferral of termination of assistance.

(m) *Reduction of number of units covered by contract.* Section 882.512 applies to this program.

(n) *Maintenance, operation, and inspections.* Section 882.516 applies to this program.

(o) *HUD review of contract compliance.* Section 882.217 applies to this program.

(p) *Records and reports.* Each recipient of assistance under this subpart must keep any records and make any reports that HUD may require within the timeframe required.

(q) *Participation of homeless individuals.* (1) Each approved applicant receiving assistance under this program, except HAs, must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that the entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this subpart. This requirement is waived if the applicant is unable to meet this requirement and presents a plan that HUD approves to consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(2) To the maximum extent practicable, each approved applicant must involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this subpart, and in providing services for occupants of such facilities.

(Approved by the Office of Management and Budget under control number 2506–0131)

§ 882.809 Waivers.

Section 5.405(b) of this title does not apply to this program.

§ 882.810 Displacement, relocation, and acquisition.

Section 882.406 applies to this program.

Dated: September 3, 1996.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 3845/P.L. 104–194

District of Columbia Appropriations Act, 1997 (Sept. 9, 1996; 110 Stat. 2356)

Last List August 23, 1996