10–16–96
Vol. 61 No. 201
Pages 53825–54076

federal register

Wednesday
October 16, 1996

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RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

The President

Proclamation 6936 of October 10, 1996

General Pulaski Memorial Day, 1996

By the President of the United States of America

A Proclamation

On October 11, we observe the 217th anniversary of the death of a great military hero from American history, General Casimir Pulaski. Every year on this date, Americans and Poles together honor this valiant soldier, who spent his life fighting for freedom on both sides of the Atlantic. General Pulaski's life and career are a vivid reminder of the strong historical bonds between Poland and the United States. These bonds have been forged not only by the millions of Polish Americans who have helped make our country great, but also by our two countries' shared dedication to the principles of liberty and independence.

Pulaski, born into a family of nobles, first fought oppression at his father's side, battling the forces of Prussia and Imperial Russia to preserve the liberty of his Polish homeland. Exiled by the Russians, he was recruited into the American colonies' Continental Army by Benjamin Franklin and brought his bravery and passion for freedom to numerous battles during the Revolutionary War. General Pulaski sacrificed his life for the cause of liberty during the siege of Savannah as he protected American troops.

In our own time, we have seen the Polish people follow the example of General Pulaski and renew their dedication to freedom—rebuilding their homeland in spite of Nazi oppression and, later, communist tyranny. Today, Poland has regained its sovereignty and fashioned a sturdy representative democracy. For Americans and Poles alike, Casimir Pulaski's sacrifice for independence remains a model of courage and commitment that can stir us to reach new heights of democratic justice and liberty.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, October 11, 1996, as General Pulaski Memorial Day. I encourage Americans everywhere to commemorate this occasion with appropriate ceremonies and activities paying tribute to Casimir Pulaski and honoring all those who carry on his mission.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.

William J. Clinton

[FR Doc. 96–26684
Filed 10–15–96; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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.

FEDERAL RESERVE SYSTEM

5 CFR Chapter LVIII

12 CFR Part 264

[Docket No. R–0900]

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Board of Governors of the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System, with the concurrence of the Office of Government Ethics (OGE), is issuing a final rule establishing uniform standards of ethical conduct for employees of the Board to supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The regulation is a necessary supplement to the Executive Branch-wide Standards because it addresses ethical issues unique to the Board, establishing rules relating to: financial interests and transactions; borrowing and extensions of credit; employment relationships of immediate family members; and outside employment. The Board is also replacing its old employee conduct regulation with a residual cross-reference to the new provisions.

EFFECTIVE DATE: November 1, 1996.

FOR FURTHER INFORMATION CONTACT: Cary Williams, Managing Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, telephone (202) 452–3295, FAX (202) 452–3101. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published the Standards of Ethical Conduct for Employees in the Executive Branch. See 57 FR 35006–35067, as corrected at 57 FR 48557, 57 FR 52583 and 60 FR 51667, and amended at 61 FR 41162–41164 (as corrected at 61 FR 48733) and 61 FR 50689–50691, with additional grace period extensions at 59 FR 4779–4780, 60 FR 6390–6391, 60 FR 66857–66858, and 61 FR 40950–40952. The Executive Branch-wide Standards are now codified at 5 CFR part 2635. Effective February 3, 1993, they established uniform ethical conduct standards applicable to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. On December 19, 1995, the Board, with OGE's concurrence, published for comment a proposed rule to establish supplemental standards of ethical conduct for Board employees (60 FR 65249–65254). The Board, with OGE's concurrence determined that the proposed supplemental regulations were necessary to implement the Board's ethics program successfully, in light of the Board's unique programs and operations.

The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. The Board received no comments but has made two modifications to the rule as proposed in adopting this final rule, with OGE concurrence. The first modification affects § 6801.103(d). Section 6801.103(a) prohibits a Board employee and his or her spouse or minor child from owning or controlling any debt or equity interest in a depository institution or its affiliates or of a primary government securities dealer or its affiliates. Sections 6801.103(b) and (c) provide limited exceptions to this prohibition for interests in certain nonbanking holding companies and their affiliates and for interests for which a waiver is issued. Paragraph (d) requires employees to consult with the Designated Agency Ethics Official (DAEO) concerning the need for recusal as a result of retaining an interest held due to an exception or a waiver. The proposed rule provided that such consultation would be necessary if the interest was in a ''holding company.'' In fact, limiting the scope of the provision in this way was unintentional, as the employee should consult with the DAEO regarding recusal if an otherwise prohibited interest is held in a bank or other entity, not just in a holding company. For this reason, the term ''holding company'' in § 6801.103(d) of the proposed rule has been replaced with the term ''entity'' in the final rule.

The second modification affects § 6801.108. Proposed § 6801.108(a) would have required a supervisory employee who had knowledge that a member of his or her immediate family was employed by a depository institution to ''report such employment to his or her supervisor and the Ethics Office within thirty days of the commencement of the supervisory employee's employment at the Board or promptly upon learning of the employment relationship.'' The Board has since concluded that imposing such a reporting requirement on supervisory employees is unnecessary. Supervisory employees will be asked to provide certain information about their credit relationships on an annual disclosure form, and a space will be provided on this form for employees to disclose information about their immediate family members' employment by depository institutions. It is felt that this level of reporting is sufficient to serve the purpose of notifying supervisors of a possible need for disqualification. Section 6801.108(b) in the proposed regulation requiring a supervisory employee's disqualification from a matter involving a depository institution that employs a member of his or her immediate family has been renumbered and is now § 6801.108. Otherwise, it remains unchanged.

II. Repeal of the Board's Regulations on Employee Responsibilities and Conduct

The Board is also repealing its regulations on the Responsibilities and Conduct of Board Employees, 12 CFR part 264, and adding a residual cross-reference to the new provisions.

III. Matters of Regulatory Procedure

Administrative Procedure Act

The Board has found good cause pursuant to 5 U.S.C. 553(d)(3) for waiving, as unnecessary and contrary to

the public interest, the 30-day delayed effective date requirement as to this final rule. The reason for this determination is that the Board's old ethics rules regarding outside employment and prohibited financial interests will no longer be effective after November 1, 1996 under OGE's latest grace period extension. It is important to the Board's ethics program that the new part 6801 supplemental standards regulation take effect before that expiration date. In addition, this rulemaking is related to Board management and personnel.

Regulatory Flexibility Act

The Board has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it primarily affects Board employees and their families.

Paperwork Reduction Act

The Board has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects

5 CFR Part 6801

Conflict of interests, Government employees.

12 CFR Part 264

Conflict of interests, Federal Reserve System.

Dated: October 4, 1996.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

Approved: October 4, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Board, with the concurrence with the Office of Government Ethics, is amending title 5 and chapter II of title 12 of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

1. A new chapter LVIII, consisting of part 6801, is added to title 5 of the Code of Federal Regulations to read as follows:

CHAPTER LVIII—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 6801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Sec.

6801.101 Purpose.
6801.102 Definitions.
6801.103 Prohibited financial interests.
6801.104 Speculative dealings. [Reserved]
6801.105 Prohibition on preferential terms from regulated institutions.
6801.106 Prohibition on supervisory employees' seeking credit from institutions involved in work assignments.
6801.107 Disqualification of supervisory employees from matters involving lenders.
6801.108 Restrictions resulting from employment of family members.
6801.109 Prior approval for compensated outside employment.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 244, 248; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p.215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p.306; 5 CFR 2635.105, 2635.403(a), 2635.502, 2635.803.

§ 6801.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations in this part supplement the Standards of Ethical Conduct for Employees of the Executive Branch found at 5 CFR part 2635. They apply to members and other employees of the Board of Governors of the Federal Reserve System (''Board'').

§ 6801.102 Definitions.

For purposes of this part:

(a) *Affiliate* means any company that controls, is controlled by, or is under common corporate control with another company.

(b) (1) *Debt or equity interest* includes secured and unsecured bonds, debentures, notes, securitized assets, commercial paper, and preferred and common stock. The term encompasses both current and contingent ownership interests therein; any such beneficial or legal interest derived from a trust; any right to acquire or dispose of any long or short position in debt or equity interests; any interests convertible into debt or equity interests; and any options, rights, warrants, puts, calls, straddles, and derivatives with respect thereto.

(2) *Debt or equity interest* does not include deposits; credit union shares; any future interest created by someone other than the employee, his or her spouse, or dependent; or any right as a beneficiary of an estate that has not been settled.

(c) *Dependent child* means an employee's son, daughter, stepson, or stepdaughter if:

(1) Unmarried, under the age of 21, and living in the employee's household; or

(2) Claimed as a ''dependent'' on the employee's income tax return.

(d) *Depository institution* means a bank, trust company, thrift institution, or any institution that accepts deposits, including a bank chartered under the laws of a foreign country.

(e) *Employee* means an officer or employee of the Board, including a Board member. It does not include a special Government employee.

(f) *Primary government securities dealer* means a firm with which the Federal Reserve conducts its open market operations.

(g) *Supervisory employee* means an employee who is a member of the professional staff at the Board with responsibilities in the area of banking supervision and regulation.

§ 6801.103 Prohibited financial interests.

(a) *Prohibited interests.* Except as permitted by this section, an employee, or an employee's spouse or minor child, shall not own or control, directly or indirectly, any debt or equity interest in:

(1) A depository institution or any of its affiliates; or

(2) A primary government securities dealer or any of its affiliates.

(b) *Exceptions.* The prohibition in paragraph (a) of this section does not apply to the ownership or control of a debt or equity interest in the following:

(1) *Nonbanking holding companies.* A publicly traded holding company that:

(i) Owns a bank and either the holding company or the bank is exempt under the Bank Holding Company Act of 1956, 12 U.S.C. 1841 *et seq.,* (for example, a credit card bank, a nonbank bank or a grandfathered bank holding company), and the holding company's predominant activity is not the ownership or operation of banks and thrifts;

(ii) Owns a thrift and its predominant activity is not the ownership or operation of banks and thrifts; or

(iii) Owns a primary government securities dealer and its predominant activity is not the ownership or operation of banks, thrifts or securities firms.

(2) *Mutual funds.* A publicly traded or publicly available mutual fund or other collective investment fund if:

(i) The fund does not have a stated policy of concentration in the financial services industry; and

(ii) Neither the employee nor the employee's spouse exercises or has the ability to exercise control over the financial interests held by the fund or their selection.

(3) *Pension plans.* A widely held, diversified pension or other retirement fund that is administered by an independent trustee.

(c) *Waivers.* The Board's Designated Agency Ethics Official, in consultation with Division management, may grant a written waiver permitting the employee to own or control a debt or equity interest prohibited by paragraph (a) of this section if:

(1) Extenuating circumstances exist, such as that ownership or control was acquired:

(i) Through inheritance, gift, merger, acquisition, or other change in corporate structure, or otherwise without specific intent on the part of the employee, spouse, or minor child to acquire the debt or equity interest; or

(ii) By an employee's spouse as part of a compensation package in connection with the spouse's employment or prior to marriage to the employee;

(2) The employee makes a prompt and complete written disclosure of the interest;

(3) The employee's disqualification from participating in any particular matter having a direct and predictable effect on the institution or any of its affiliates does not unduly interfere with the full performance of the employee's duties; and

(4) Granting the waiver would be consistent with Division policy.

(d) *Disqualification.* If an employee or an employee's spouse or minor child holds an interest in an entity under paragraph (b)(1) or (c) of this section, the employee must consult the Designated Agency Ethics Official in order to determine whether the employee must be disqualified from participating in any particular matter involving that entity or affiliate under the conflicts of interest rules of the Office of Government Ethics.

§ 6801.104 Speculative dealings. [Reserved]

§ 6801.105 Prohibition on preferential terms from regulated institutions.

An employee may not accept a loan from, or enter into any other financial relationship with, an institution regulated by the Board, if the loan or financial relationship is governed by terms more favorable than would be available in like circumstances to members of the public.

§ 6801.106 Prohibition on supervisory employees' seeking credit from institutions involved in work assignments.

(a) *Prohibition on supervisory employee's seeking credit.* (1) A supervisory employee may not, on his or her own behalf, or on behalf of his or her spouse or child or anyone else (including any business or nonprofit organization), seek or accept credit from, or renew or renegotiate credit with, a depository institution or any of its affiliates if the institution or affiliate is a party to an application, enforcement action, investigation, or other particular matter involving specific parties pending before the Board and:

(i) The supervisory employee is assigned to the matter; or

(ii) The supervisory employee is aware of the pendency of the matter and knows that he or she will participate in the matter by action, advice or recommendation.

(2) The prohibition in paragraph (a)(1) of this section also applies for three months after the supervisory employee's participation in the matter has ended.

(b) *Credit sought by spouse and other related persons.* A supervisory employee must disqualify himself or herself from participating (by action, advice or recommendation) in any application, enforcement action, investigation or other particular matter involving specific parties to which a depository institution or any of its affiliates is a party as soon as the supervisory employee learns that any of the following related persons are seeking or have sought or accepted credit from, or have renewed or renegotiated credit with, the depository institution or any of its affiliates while the matter is pending before the Board:

(1) The employee's spouse or dependent child;

(2) A company or business if the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity; or

(3) A partnership if the employee, or the employee's spouse or dependent child is a general partner.

(c) *Exception.* The prohibition in paragraph (a) of this section and the disqualification requirement in paragraph (b) of this section do not apply with respect to credit obtained through the use of a credit card or overdraft protection on terms and conditions available to the public.

(d) *Waivers.* The Board's Designated Agency Ethics Official, after consulting with the relevant division director, may grant a written waiver from the prohibition in paragraph (a) of this section, or the disqualification requirement in paragraph (b) of this section, based on a determination that participation in matters otherwise prohibited by this section would not create an appearance of loss of impartiality or use of public office for private gain, and would not otherwise be inconsistent with the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635) or prohibited by law.

§ 6801.107 Disqualification of supervisory employees from matters involving lenders.

(a) *Disqualification required.* A supervisory employee may not participate by action, advice or recommendation in any application, enforcement action, investigation, or other particular matter involving specific parties to which a depository institution or its affiliate is a party if any of the following are indebted to the depository institution or any of its affiliates:

(1) The employee;

(2) The spouse or dependent child of the employee;

(3) A company or business if the employee or the employee's spouse or dependent child owns or controls more than 10 percent of its equity; or

(4) A partnership if the employee or the employee's spouse or dependent child is a general partner.

(b) *Exceptions*—(1) *Consumer credit on nonpreferential terms.* Disqualification of a supervisory employee is not required by paragraph (a) of this section for the following types of indebtedness if payment on the indebtedness is current and the indebtedness is on terms and conditions offered to the public:

(i) Credit extended through the use of a credit card;

(ii) Credit extended through use of an overdraft protection line;

(iii) Amortizing consumer credit (e.g., home mortgage loans, automobile loans); and

(iv) Credit extended under home equity lines of credit.

(2) *Indebtedness of a spouse or dependent child.* Disqualification is not required with respect to any indebtedness of the employee's spouse or dependent child, or a company, business or partnership in which the spouse or dependent child has an interest described in paragraphs (a)(3) and (a)(4) of this section, if:

(i) The indebtedness represents the sole financial interest or responsibility of the spouse, child, company, business or partnership and is not derived from the employee's income, assets or activities; and

(ii) The employee has no knowledge of the identity of the lender.

(c) *Waivers.* The Board's Designated Agency Ethics Official, after consulting with the relevant Division director, may grant a written waiver from the disqualification requirement in paragraph (a) of this section using the authorization process set forth in the Office of Government Ethics' Standards of Ethical Conduct at 5 CFR 2635.502(d).

§ 6801.108 Restrictions resulting from employment of family members.

A supervisory employee may not participate in any particular matter to which a depository institution or its affiliate is a party if the depository institution or affiliate employs his or her spouse, child, parent or sibling unless the supervising officer, with the concurrence of the Board's Designated Agency Ethics Official, has authorized the employee to participate in the matter using the authorization process set forth in the Office of Government Ethics' Standards of Ethical Conduct at 5 CFR 2635.502(d).

§ 6801.109 Prior approval for compensated outside employment.

(a) *Approval requirement.* An employee shall obtain prior written approval from his or her Division director (or the Division director's designee) and the concurrence of the Board's Designated Agency Ethics Official before engaging in compensated outside employment.

(b) *Standard for approval.* Approval will be granted unless a determination is made that the prospective outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(c) *Definition of employment.* For purposes of this section, the term compensated outside employment means any form of compensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker.

TITLE 12—BANKS AND BANKING

CHAPTER II—FEDERAL RESERVE SYSTEM

2. 12 CFR part 264 is revised to read as follows:

PART 264—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Authority: 5 U.S.C. 7301; 12 U.S.C. 244.

§ 264.101 Cross-reference to employees' ethical conduct standards and financial disclosure regulations.

Employees of the Board of Governors of the Federal Reserve System (Board) are subject to the executive branch-wide standards of ethical conduct at 5 CFR part 2635 and the Board's regulation at 5 CFR part 6801, which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulation at 5 CFR part 2634.

[FR Doc. 96–26407 Filed 10–15–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 235, 286 and 299

[INS No. 1675–94]

RIN 1115–AD82

Collection of Fees Under the Dedicated Commuter Lane Program; Port Passenger Accelerated Service System (PORTPASS) Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service (Service) published an interim rule with request for comments on September 29, 1995, which allowed for implementation of additional land border inspection fee projects designed to facilitate the entry of identified, low-risk, legitimate border crossers on the northern border. The rule also allowed for the implementation of a pilot dedicated commuter lane (DCL) to facilitate the entry of identified, low-risk, legitimate border crossers on the California-Mexico border. This final rule clarifies and better defines the interim rule, and addresses questions and practical issues which arose during the operation of the pilot dedicated commuter lane (DCL) on the California-Mexico border at the Otay Mesa Port of Entry (POE).

EFFECTIVE DATE: October 16, 1996.

FOR FURTHER INFORMATION CONTACT: Robert A. Mocny, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4064, Washington, DC 20536, telephone (202) 514–3019.

SUPPLEMENTARY INFORMATION: The provisions of Public Law 101–515, dated November 5, 1990, authorized the establishment of pilot projects at land border POEs for which a fee may be charged and collected for inspection services provided at land border POEs. The implementing regulation which established pilot programs for the charging of a land border user fee for inspection services was published as an interim rule by the Service on May 13, 1991, at 56 FR 21917–21920. That interim rule placed all eligibility requirements, application processes, and compliance requirements pertaining to inspection user fees in § 286.6.

On September 29, 1995, the Commissioner, Immigration and Naturalization Service, published in the Federal Register at 60 FR 50386–50399, an interim rule with request for comments by November 28, 1995. The interim rule added a variety of border inspection pilot projects to selected POEs on the northern and California-Mexico land borders, and moved application and eligibility requirements for those persons seeking to participate in any of the pilot projects from 8 CFR 286.8 to 8 CFR 235.13. Expanding and testing pilot projects on land borders facilitates the entry of low-risk, legitimate border crossers, while still safeguarding the integrity of the United States land borders.

No comments were received on the interim rule. However, the following summarizes and explains the changes made in this final rule which clarify and address practical issues which arose during implementation and operation of the pilot program.

PORTPASS Program Definitions—§ 235.13(a)(1)

The effect of use of the PORTPASS Program by an alien participant was distinguished from use of the program by the U.S. citizen participant. Each time the alien uses the PORTPASS program he or she is making an ''entry'' as defined by section 101(a)(13) of the Immigration and Nationality Act (Act), as amended, a term which is not applicable to U.S. citizens.

In the definition under ''DCL System Costs Fee,'' a vehicle fee was added to cover the costs in certain situations of a participant registering more than one vehicle, and expiration dates were clarified.

Eligibility Requirements—§ 235.13(a)(3)

Additional notice is provided that criminal history databases will be accessed in order to determine an applicant's program eligibility.

Application—§ 235.13(a) (4) and (5)

This paragraph was rewritten to allow for better organization and understanding of the application

procedure and its documentary requirements, including the requirement to provide proof of vehicle insurance and registration. The name of the application, Form I–823, is changed from ''Application—Inspections Facilitation Program,'' to, ''Application—Alternative Inspection Services,'' in order to identify better the use of the application to the public. In addition, paragraph (a)(4)(x) provides for reapplication for use of the lane following a denial only after a 90 day waiting period. Because the number of applications accepted for the program may be limited, this rule will allow more persons to apply for the program. Clarification is also provided in paragraph (a)(5)(viii) that each occupant of a vehicle in the lane is responsible for the contents of the vehicle when passing through the lane.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors. The rule applies to individuals, not small entities, and provides a clear benefit to participants by allowing expeditious passage through a POE. Although there is a fee charged for this service, participation is voluntary.

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 regulations 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.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5 Display of control numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Aliens, Authority delegations (Government agencies), Freedom of Information, Privacy Act, Reporting and record keeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passport and visas.

8 CFR Part 286

Fees, Immigration, Reporting and record keeping requirements.

8 CFR Part 299

Administrative practice and procedure, Aliens, Forms, Immigration, Reporting and record keeping requirements.

Accordingly, the interim rule amending 8 CFR Parts 103, 235, 286, and 299 which was published at 60 FR 50386–50399 on September 29, 1995, is adopted as a final rule with the following changes:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252.

2. Section 235.13 is revised to read as follows:

§ 235.13 Automated inspection services.

(a) *PORTPASS Program*—(1) *Definitions*—(i) *Port Passenger Accelerated Service System (PORTPASS).* A system in which certain ports-of-entry (POEs) are identified and designated by the Service as providing access to the United States for a group of identified, low-risk, border crossers. Alien participants in the PORTPASS program are personally inspected, identified, and screened in advance of approval for participation in the program by an immigration officer, and may apply to enter the United States through a dedicated commuter lane (DCL) or through an automated permit port (APP). Such advance inspection and identification, when the enrolled participant satisfies the conditions and requirements set fourth in this section, satisfies the reporting requirements of § 235.1(a). Each successful use of PORTPASS constitutes a separate and completed inspection and application for entry by the alien program participants on the date PORTPASS is used. United States citizens who meet the eligibility requirements for participation are subject to all rules, procedures, and conditions for use set forth in this section.

(ii) *Automated Permit Port (APP).* A POE designated by the Service to provide access to the United States by an identified, low-risk, border crosser through the use of automation when the POE is not staffed. An APP has limited hours of operation and is located at a remote location on a land border. This program is limited to the northern border of the United States.

(iii) *Dedicated commuter lane (DCL).* A special lane set apart from the normal flow of traffic at a land border POE which allows an accelerated inspection for identified, low-risk travelers. This program is limited to the northern border of the United States and the California-Mexico border.

(iv) *DCL system costs fee.* A fee charged to a participant to cover the cost of the implementation and operation of the PORTPASS system. If a participant wishes to enroll more than one vehicle for use in the PORTPASS system, he or she will be assessed an *additional vehicle fee* for each additional vehicle enrolled. Regardless of when the additional vehicle is enrolled, the expiration date for use of that vehicle in the DCL will be the same date that the respective participant's authorized use of the lane expires, or is otherwise revoked.

(2) *Designation of POEs for PORTPASS access.* The following criteria shall be used by the Service in the selection of a POE when classifying the POE as having PORTPASS access:

(i) The location has an identifiable group of low-risk border crossers;

(ii) The institution of PORTPASS access will not significantly inhibit normal traffic flow;

(iii) The POE selected for access via a DCL has a sufficient number of Service personnel to perform primary and secondary inspection functions.

(3) *General eligibility requirements for PORTPASS program applicants.* Applicants to PORTPASS must be citizens or lawful permanent residents of the United States, or nonimmigrants determined to be eligible by the Commissioner of the Service. Non-United States citizens must meet all applicable documentary and entry eligibility requirements of the Act. Applicants must agree to furnish all information requested on the application, and must agree to terms set forth for use of the PORTPASS program. Use of the PORTPASS program

constitutes application for entry into the United States. Criminal justice information databases will be checked to assist in determining the applicant's eligibility for the PORTPASS program at the time the Form I–823, Application—Alternative Inspection Services, is submitted. Criminal justice information on PORTPASS participants will be updated regularly, and the results will be checked electronically at the time of each approved participant's use of PORTPASS. Notwithstanding the provisions of 8 CFR part 264, fingerprints on Form FD–258 or in the manner prescribed by the Service may be required.

(4) *Application.* (i) Application for PORTPASS access shall be made on Form I–823, Application—Alternative Inspection Services. Applications may be submitted during regular working hours at the principal Port-of-Entry having jurisdiction over the Port-of-Entry for which the applicant requests access. Applications may also be submitted by mail.

(ii) Each person seeking PORTPASS access must file a separate application.

(iii) The number of persons and vehicles which can use a DCL is limited numerically by the technology of the system. For this reason, distribution of applications at each POE may be limited.

(iv) Applications must be supported by evidence of citizenship, and, in the case of lawful permanent residents of the United States, evidence of lawful permanent resident status in the United States. Alien applicants required to possess a valid visa must present documentation establishing such possession and any other documentation as required by the Act at the time of the application, and must be in possession of such documentation at the time of each entry, and at all times while present in the United States. Evidence of residency must be submitted by all applicants. Evidence of employment may be required to be furnished by the applicant. A current valid driver's license, and evidence of vehicle registration and insurance for the vehicle which will be occupied by the applicant as a driver or passenger when he or she uses the DCL or APP must be presented to the Service prior to approval of the application.

(v) A completed Form I–823 must be accompanied by the fee as prescribed in § 103.7(b)(1) of this chapter. Each PORTPASS applicant 14 years-of-age or older must complete the application and pay the application fee. Applicants under the age of 14 will be required to complete the application, but will not be required to pay the application fee. An application for a replacement PORTPASS card must be made on the Form I–823, and filed with the fee prescribed in § 103.7(b)(1). The district director having jurisdiction over the POE where the applicant requests access may, in his or her discretion, waive the application or replacement fee.

(vi) If fingerprints are required to assist in a determination of eligibility at that POE, the applicant will be so advised by the Service prior to submitting his or her application. The applicant shall also be informed at that time of the current Federal Bureau of Investigation fee for conducting a fingerprint check. This fee must be paid by the applicant to the Service before any processing of the application shall occur. The fingerprint fee may be not be waived.

(vii) Each applicant must present himself or herself for an inspection and/or positive identification at a time designated by the Service prior to approval of the application.

(viii) Each vehicle that a PORTPASS participant desires to register in PORTPASS must be inspected and approved by the Service prior to use in the PORTPASS system. Evidence of valid, current registration and vehicle insurance must be presented to the Service at the time the vehicle is inspected. If the vehicle is not owned by the participant, the participant may be required to present written permission from the registered owner authorizing use of the vehicle in the PORTPASS program throughout the PORTPASS registration period.

(ix) An applicant, whether an occupant or driver, may apply to use more than one vehicle in the DCL. The first vehicle listed on the Form I–823 will be designated as the applicant's primary vehicle. The second vehicle, if not designated by another applicant as his or her primary vehicle, is subject to the additional vehicle charge as prescribed by the Service.

(x) An application may be denied in the discretion of the district director having jurisdiction over the POE where the applicant requests access. Notice of such denial shall be given to the applicant. There is no appeal from the denial, but denial is without prejudice to reapplying for this or any other Service benefit. Re-applications, or applications following revocation of permission to use the lane, will not be considered by the Service until 90 days have passed following the date of denial or revocation. Criteria which will be considered in the decision to approve or deny the application include the following: admissibility to the United States and documentation so evidencing, criminal history and/or evidence of criminality, purpose of travel, employment, residency, prior immigration history, possession of current driver's license, vehicle insurance and registration, and vehicle inspection.

(xi) Applications approved by the Service will entitle the applicant to seek entry via a designated PORTPASS Program POE for a period of 1 year from the date of approval of the application unless approval is otherwise withdrawn. An application for a replacement card will not extend the initial period of approval.

(5) By applying for and participating in the PORTPASS program, each approved participant acknowledges and agrees to all of the following:

(i) The installation and/or use of, in the vehicle approved for use in the PORTPASS program, any and all decals, devices, technology or other methodology deemed necessary by the Service to ensure inspection of the person(s) seeking entry through a DCL, in addition to any fee and/or monetary deposit assessed by the Service pending return of any and all such decals, devices, technology, and other methodology in undamaged condition.

(ii) That all devices, decals, or other equipment, methodology, or technology used to identify or inspect persons or vehicles seeking entry via any PORTPASS program remains the property of the United States Government at all times, and must be surrendered upon request by the Service. Each participant agrees to abide by the terms set forth by the Service for use of any device, decal, or other equipment, method or technology.

(iii) The payment of a system costs fee as determined by the Service to be necessary to cover the costs of implementing, maintaining, and operating the PORTPASS program.

(iv) That each occupant of a vehicle applying for entry through PORTPASS must have current approval from the Service to apply for entry through the PORTPASS program in that vehicle.

(v) That a participant must be in possession of any authorization document(s) issued for PORTPASS access and any other entry document(s) as required by the Act or by regulation at the time of each entry to the United States.

(vi) That a participant must positively identify himself or herself in the manner prescribed by the Service at the time of each application for entry via the PORTPASS.

(vii) That each use of PORTPASS constitutes a separate application for

entry to the United States by the alien participant.

(viii) That each participant agrees to be responsible for all contents of the vehicle that he or she occupies when using PORTPASS.

(ix) That a participant may not import merchandise or transport controlled or restricted items using PORTPASS. The entry of any merchandise or goods must be in accordance with the laws and regulations of all other Federal inspection agencies.

(x) That a participant must abide by all Federal, state and local laws regarding the importation of alcohol or agricultural products or the importation or possession of controlled substances as defined in section 101 of the Controlled Substance Act (21 U.S.C. § 802).

(xi) That a participant will be subject to random checks or inspections that may be conducted by the Service at any time and at any location, to ensure compliance.

(xii) That current vehicle registration and, if applicable, current permission to use the vehicle in PORTPASS, and evidence of current vehicle insurance, shall be in the vehicle at all times during use of PORTPASS.

(xiii) Participant agrees to notify the Service if a vehicle approved for use in a PORTPASS program is sold, stolen, damaged, or disposed of otherwise. If a vehicle is sold, it is the responsibility of the participant to remove or obliterate any identifying device or other authorization for participation in the program or at the time of sale unless otherwise notified by the Service. If any license plates are replaced on an enrolled vehicle, the participant must submit a properly executed Form I–823, without fee, prior to use of the vehicle in the PORTPASS program.

(xiv) That APP-approved participants who wish to enter the United States through a POE other than one designated as an APP through which they may pass must present themselves for inspection or examination by an immigration officer during normal business hours. Entry to the United States during hours when a Port of Entry is not staffed may be made only through a POE designated as an APP.

(b) *Violation of condition of the PORTPASS program.* A PORTPASS program participant who violates any condition of the PORTPASS program, or who has violated any immigration law or regulation, or a law or regulation of the United States Customs Service or other Federal Inspection Service, or who is otherwise determined by an immigration officer to be inadmissible to the United States or ineligible to participate in PORTPASS, may have the PORTPASS access revoked at the discretion of the district director or the chief patrol agent and may be subject to other applicable sanctions, such as criminal and/or administrative prosecution or deportation, as well as possible seizure of goods and/or vehicles.

(c) *Judicial review.* Nothing in this section is intended to create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the Department of Justice, the Immigration and Naturalization Service, their officers or any employees of the Department of Justice.

PART 286—IMMIGRATION USER FEE

3. The authority citation for part 286 continues to read as follows:

Authority: 8 U.S.C. 1103, 1156; 8 CFR part 2.

4. In § 286.8, a new paragraph (f) is added to read as follows:

§ 286.8 Estabishment of pilot programs for the charging of a land border fee for inspection services.

* * * * *

(f) Costs associated with the administration of the Land Border Inspection Fee account.

PART 299—IMMIGRATION FORMS

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

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

6. Section 299.1 is amended by revising the entry for the ''Form I–823'' to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
* * * * * * *		
I–823	9–10–96	Application—Alternative Inspection Services.
* * * * * * *		

7. Section 299.5 is amended by revising the entry for the Form ''I–823'' to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No. OMB	INS form title	Currently assigned control OMB No.
* * * * * * *		
I–823	Application—Alternative Inspection Services	1115–0174
* * * * * * *		

Dated: September 27, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–26580 Filed 10–11–96; 11:48 am]

BILLING CODE 4410–10–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AB93

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Deposit Insurance Funds Act of 1996 (Funds Act) requires the FDIC to impose a special assessment on institutions holding deposits subject to assessment by the Savings Association Insurance Fund (SAIF). The Funds Act mandates that the special assessment increase the SAIF's net worth as of October 1, 1996 to 1.25 percent of SAIF-insured deposits.

The Funds Act requires the FDIC to determine the amount of the special assessment based on the most recently calculated SAIF balance (August 31, 1996) and insured deposit data reported in the most recent quarterly reports of condition filed not later than 70 days before enactment (reports as of March 31, 1996, filed April 30, 1996). The special assessment will be collected on November 27, 1996. This assessment, which the FDIC estimates to be 65.7 basis points, is required to be applied against SAIF-assessable deposits which generally were held by institutions as of March 31, 1995.

The final rule provides for certain discounts and exemptions related to the special assessment. In addition, the FDIC is establishing guidelines for identifying institutions classified as ''weak'', and therefore exempt from the special assessment. The final rule also adjusts the base for computing the regular semiannual assessments paid by certain institutions, in accordance with the Funds Act.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen Ledbetter, Chief, Assessments Evaluation Section, Division of Insurance (202) 898–8658; Allan Long, Assistant Director, Division of Finance, (202) 416–6991; Cary Hiner, Associate Director, Division of Supervision, (202) 898–6814; James McFadyen, Senior Financial Analyst, (202) 898–7027, Division of Research and Statistics; Richard Osterman, Senior Counsel, (202) 898–3523, or Jules Bernard, Counsel, Legal Division, (202) 898–3731; Federal Deposit Insurance Corporation, 550–17th St., N.W., Washington, D. C. 20429.

SUPPLEMENTARY INFORMATION:

I. The Final Rule

The final rule imposes a special assessment on all institutions that pay assessments to the SAIF, but allows discounts for certain institutions, and exempts others. The final rule also reduces the adjusted attributable deposit amounts (AADAs) of certain Oakar banks: banks that belong to the Bank Insurance Fund (BIF), but hold deposits that are treated as insured by the SAIF pursuant to the Oakar Amendment, 12 U.S.C. 1815(d)(3).

A. The Special Assessment

The Funds Act, Pub. L. 104–208, 110 Stat. 3009 et seq., requires the FDIC's Board of Directors (Board) to impose a special assessment on all institutions that hold SAIF-assessable deposits—that is, on SAIF-member institutions, and on Oakar banks—in an amount sufficient to increase the Savings Association Insurance Fund reserve ratio (SAIF reserve ratio)[1] to the designated reserve ratio (DRR) of 1.25 percent[2] as of October 1, 1996. Funds Act section 2702(a); *see* 12 U.S.C. 1817(b)(2)(a)(4).

The Funds Act requires the special assessment to be applied against the SAIF-assessable deposits held by institutions as of March 31, 1995. If an institution that held deposits on that date has transferred the deposits to another institution after March 31, 1995, and is no longer an insured institution on November 27, 1996 (the collection date for the special assessment), the transferee institution is deemed to have held the transferred deposits as of March 31, 1995, and must pay the assessment due on them. *See* Funds Act section 2710(8)(B).

The Board is also required to take the following exemptions and adjustments into account in determining the amount of the special assessment: (1) The Funds Act decreases by 20 percent the amount of SAIF-assessable deposits against which the special assessment will be applied for certain institutions; (2) the Funds Act grants exemptions to certain specifically defined institutions; and (3) the Funds Act also provides the Board with the authority to exempt weak institutions from paying the special assessment if the Board determines that such an exemption would reduce risk to the SAIF.

1. 20 Percent Discounts

When calculating the amount of special assessment for certain institutions, those institutions' SAIF-assessable deposits, determined as of March 31, 1995, are decreased by 20 percent.

Section 2702(h) of the Funds Act provides the discount to the following Oakar banks:

—Any Oakar bank that, as of June 30, 1995, had an AADA that was less than half of its total domestic (and therefore assessable) deposits. *Id.* section 2702(h)(1)(A).

—Any Oakar bank that met all the following conditions as of June 30, 1995: it had more than $5 billion in total assessable deposits; it had an AADA that was less than 75 percent of that amount; and it belonged to a bank holding company system that, in the aggregate, had more BIF-insured deposits than SAIF-insured deposits. *Id.* section 2702(h)(1)(B).

Section 2702(j) of the Funds Act provides the same discount to the following ''converted'' institutions:

—A SAIF-member federal savings association that had no more than $4 billion of SAIF-assessable deposits as of March 31, 1995, and that had been, or is a successor to, an institution that used to be a state savings bank insured by the FDIC prior to August 9, 1989, and that converted to a federal savings association pursuant to section 5(*i*) of the Home Owners' Loan Act before January 1, 1985. *Id.* section 2702(j)(2)(A).

—A state-chartered SAIF member that had been a state savings bank prior to October 15, 1982, and that was a federal savings association on August 9, 1989. *Id.* section 2702(j)(2)(B).

—An insured bank that was established *de novo* in order to acquire the deposits of a savings association in default or in danger of default, that did not open for business before acquiring the deposits of such savings association, and that was a SAIF member as of the date of enactment of the Funds Act. *Id.* section 2702(j)(2)(C).

—A ''Sasser bank''—that is, a bank that converted its charter from a savings association to a bank, yet remained a SAIF member in accordance with the Sasser Amendment, 12 U.S.C. 1815(d)(2)(G)—that underwent the conversion before December 19, 1991, and that increased its capital by more than 75 percent in conjunction with the conversion. Funds Act section 2702(j)(2)(D).

[1] The Savings Association Insurance Fund reserve ratio is the ratio of SAIF's net worth to aggregate SAIF-insured deposits. 12 U.S.C. 1817(l)(7).

[2] The DRR is a target ratio that has a fixed value for each year. The value is either (i) 1.25 percent, or (ii) such higher percentage as the Board determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund. *Id.* 1817(b)(2)(A)(iv). The Board has not increased the DRR for the SAIF.

2. Exemptions

Section 2702(f)(3) of the Funds Act grants exemptions from the special assessment to the following institutions:

—A savings association that was in existence on October 1, 1995, but held no SAIF-assessable deposits prior to January 1, 1993. An institution is ''deemed to have held SAIF-assessable deposits prior to January 1, 1993'' if the institution directly held such deposits prior to that date, or if the institution succeeded to, acquired, purchased, or otherwise held any SAIF-assessable deposits as of the date of enactment of the Funds Act that were SAIF-assessable deposits prior to January 1, 1993. *Id.* section 2702(f)(3)(A)(i); *see id.* section 2702(f)(3)(B).

—A federal savings bank that was established *de novo* in April 1994, in order to acquire the deposits of a savings association that was in default or in danger of default, if the acquiring federal savings bank received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(w), in connection with the acquisition. Funds Act section 2702(f)(3)(A)(ii).

—A SAIF-insured savings association that, prior to January 1, 1987, was chartered as a federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986, and that, as of the date of the transaction, had assets of less than $150,000,000. *Id.* section 2702(f)(3)(A)(iii).

3. Weak institutions

Section 2702(f)(1) of the Funds Act gives the Board authority to grant an exemption to any institution that the Board determines to be ''weak'', if the Board determines that the exemption would reduce risk to the SAIF. Section 2702(f)(2) of the Funds Act requires the Board to prescribe guidelines that set forth the Board's criteria for determining whether an institution is ''weak''. Accordingly, the FDIC is adopting the following guidelines. The first two guidelines refer to the assessment risk classifications set forth in part 327, which are used to determine the regular semiannual assessments that insured institutions pay under the FDIC's risk-based assessment system. The third guideline refers to the supervisory ratings issued by the federal supervisory agencies.

Guideline #1. If a SAIF-member institution or an Oakar bank has so little capital that it currently meets the standards for capital group 3 (''undercapitalized'') pursuant to section 327.4(a)(1)(iii) of the FDIC's regulations, the institution generally presents a significant risk of loss to the SAIF for the purpose of section 2(f) of the Funds Act. The special assessment would deplete such an institution's resources even further: it would diminish the institution's capital, lower its earnings, and reduce its liquidity. Accordingly, the Board has generally determined to exempt all such institutions from the special assessment, on the ground that doing so would reduce the risk to the SAIF.

Guideline #2. The special assessment could itself cause some institutions to meet the standards of capital group 3, and thereby present a significant risk of loss to the SAIF for the purpose of section 2(f) of the Funds Act. The Board has generally determined to exempt these institutions as well, on the same ground.

(3) *Guideline #3: Institutions rated 4 or 5.* If an institution's composite rating by its primary supervisor is 4 or 5, the institution may request the FDIC to consider whether it would be appropriate to exempt the institution from the special assessment. Such an institution is regarded as ''weak'' if the institution would, after having paid the assessment, present a significant risk of loss to the SAIF for the purpose of section 2(f) of the Funds Act. The Board has determined to exempt such institutions for the reason given with respect to Guidelines #1 and #2.

The Board is delegating authority to administer these guidelines to the Director of the FDIC's Division of Supervision (DOS Director). The DOS Director will examine and evaluate the circumstances of each institution that is initially regarded as ''weak'', taking into account all relevant information currently available to the FDIC. The DOS Director will begin by looking to the institution's current assessment risk classification: that is, its risk classification for the second semiannual period of 1996 (which has determined its assessment rate for the regular semiannual assessment for that period). The DOS Director will use later financial information, where available, for the limited purpose of ascertaining whether an institution meets the criteria set forth in the guidelines.[3]

This later information will have no bearing on an institution's current assessment risk classification, or on the regular semiannual assessment it has already paid for the second semiannual period of 1996. The information will only pertain to the question whether an institution is obliged to pay—or is exempt from paying—the special assessment, without regard for the institution's current classification.

The Board believes that it is possible to adopt this approach because, as a practical matter, only a few institutions are likely to present issues that require the use of such data. The Board is pledging that the FDIC will work closely and intensively with each affected institution to determine the institution's classification for purposes of the special assessment.

The Board recognizes that in a particular case an institution may meet the standards for classification in capital group 3 as a formal matter, but may nevertheless be capable of paying the special assessment. If such an institution prefers to pay, and if the DOS Director considers that doing so will not materially increase the risk to the SAIF, the institution will be permitted to make the payment.

The Funds Act specifies that the Board must exempt weak institutions ''by order''. *Id.* section 2702(f)(1). The Board regards the action of issuing exemption orders as a ministerial function, and is delegating authority to take such action to the DOS Director under these guidelines.

Section 2702(f)(2) of the Funds Act requires the FDIC to publish the guidelines in the Federal Register. The FDIC is fulfilling this requirement by publishing the guidelines in connection with this rulemaking proceeding. The FDIC is presenting the guidelines as an appendix to subpart C of part 327 of its assessment regulation, as added by this final rule.

4. Payments by Exempt Institutions

Certain exempt institutions—''weak'' institutions, and those listed in section 2702(f)(3) of the Funds Act (see I.A.2 and 3, *supra*)—must continue to pay regular semiannual assessments to the SAIF according to the rate-schedule that was in effect for SAIF assessments on June 30, 1995.[4] *Id.* section 2702(f)(4)(A). Any such institution must do so through the end of 1999, or until it makes a pro-

[3] The FIDC has a formal procedure pursuant to which an institution may request a review of its current assessment risk classification. See 12 CFR 327.4(d). An institution must invoke the procedure within 30 days after receiving the invoice for the first quarterly payment for the current semiannual period, however. No institution in capital group 3 has done so, however, and the deadline has passed. As a result, the procedure is not available in connection with the special assessment.

[4] Section 2703 of the Funds Act provides that, for semiannual periods beginning after December 31, 1996, amounts authorized to be assessed by the SAIF will not be reduced by amounts assessed by the FICO. Accordingly, the SAIF assessment for the first semiannual period of 1997 will be separate from, and in addition to, the assessment imposed by the FICO. The alternative reading would have the anomalous result that exempt institutions in the highest risk category would pay lower overall semiannual assessments than comparable non-exempt institutions.

rata payment of the special assessment. The pro-rata payment must be equal to the following product: 16.7 percent of the amount the institution would have owed for the special assessment, multiplied by the number of full semiannual periods remaining between the date of the payment and December 31, 1999. *Id*. section 2702(f)(4)(B).

An exempt institution must pay the regular assessment (at the June 30, 1995, rates) for the first semiannual period of 1997. An exempt institution may make a pro-rata payment in any calendar year from 1997 through 1999, and thereby become subject to the rate-schedule applicable to non-exempt institutions. The Funds Act specifies that any such payment is to be made ''upon such terms as the FDIC may announce''. *Id*. section 2702(f)(4)(B). The FDIC expects to specify appropriate terms in the invoice for the special assessment.

5. Computing the Assessment Rate

The Funds Act requires the FDIC to impose the special assessment in accordance with the FDIC's regulations governing assessments. The FDIC will accordingly determine the aggregate amount of the special assessment, and will compute the particular amount that each institution must pay, just as if the assessment were a regular semiannual assessment (except insofar as the Funds Act specifically prescribes another methodology).

Amount needed. For the purpose of computing the special assessment, the FDIC is required to use the SAIF's most recent monthly balance as the numerator for the reserve ratio. *Id*. section 2702(b)(1). On August 31, 1996 (the date for the most recent monthly balance) the SAIF had a balance of $4.1 billion.

The Funds Act requires the FDIC to use the amount of SAIF-insured deposits as reported in the most recent reports of condition filed not later than 70 days before the date of enactment of the Funds Act as the denominator for calculating the reserve ratio. *Id*. section 2702(b)(2). The relevant filing date is April 30, 1996, which is the filing date for the reports of condition for the first calendar quarter of 1996. After adjusting for the 20 percent decrease in the SAIF-assessable deposits of certain Oakar banks, which the FDIC estimates to be $28.2 billion, the amount of SAIF-insured deposits as of March 31, 1996 was $688.1 billion. *Id*. section 2702(h)(1).[5]

The resulting reserve ratio is .60 percent. In order to raise the ratio to 1.25 percent, the special assessment must collect an additional $4.5 billion.

Assessable base. The FDIC must raise this amount by assessing the SAIF-assessable deposits that institutions held (or, in the case of certain transferees, are deemed to have held) as of March 31, 1995 ($726.2 billion). *Id*. section 2702(c). After adjusting for the estimated $36.8 billion decrease in the SAIF-assessable deposits of institutions receiving the 20 percent discount,[6] and the $4.0 billion in SAIF-assessable deposits of exempted institutions,[7] the amount of SAIF-assessable deposits as of March 31, 1995, subject to the special assessment is estimated to be $685.4 billion.

Resulting rate. The special assessment rate is determined by dividing the amount needed ($4.5 billion) by the adjusted SAIF- assessable deposits as of March 31, 1995. The resulting rate is 65.7 basis points (0.657 percent).

The FDIC recognizes that—in principle—there could be revisions in the deposits of individual institutions, and re-evaluations of individual institutions' eligibility for exemption from the special assessment, and that such revisions or re-evaluations could cause adjustments to be made in the data used to compute the aggregate amount of the special assessment. The FDIC does not anticipate that any such adjustments will be so large as to affect materially the aggregate amount needed or the resulting rate, however. If an adjustment is needed, the FDIC will announce the adjustment and the resulting rate on November 13, 1996, when the FDIC mails out the invoices for the special assessment.

6. Collection Procedures

The FDIC expects to send, immediately after adoption of this final rule, a letter to all SAIF members and all Oakar banks. The letter will describe the procedures that the FDIC will follow in determining and collecting the special assessment from the institutions.

The FDIC expects to contact immediately any institution that initially appears to meet the standards for classification in capital group 3; any institution that might, in the FDIC's judgment, do so if the institution were to pay the special assessment; and any institution rated composite 4 or 5 by its primary supervisor.

Together with the letter, the FDIC expects to mail to each institution a statement showing the estimated amount of the special assessment that the institution must pay, together with an explanation of the way the FDIC calculated the amount. In the case of institutions that initially appear to be ''weak'', the FDIC expects to transmit the statement in a more expeditious manner.

Institutions will have until November 1, 1996, to review the statement. If an institution believes the assessed amount is incorrect, the institution may provide whatever information may be necessary to correct it. For example, if the FDIC has improperly failed to identify an institution that is exempt from the special assessment, or one that is eligible for a reduction in the base on which its special assessment is to be computed, the institution will have until the start of November to bring the matter to the FDIC's attention. If the matter cannot be resolved before the final invoice for the special assessment is sent out, the institution will be required to pay the invoiced amount, which will be subject to adjustment (if necessary) after a final determination is made.

In addition, during this interval each institution that the FDIC has initially

[5] Section 2702(i)(2) of the Funds Act reduces the AADAs of certain Oakar banks permanently by 20 percent for the purpose of computing the institutions' regular assessments for the first semiannual period of 1997 and thereafter. *See* 12 U.S.C. 1815(d)(3)(K).

The assessments for that first period are based on the institutions' reports of condition for the second semiannual period of 1996, however: the deposits in these reports therefore reflect the lower AADAs that the institutions have with respect to the prior semiannual period (that is, the second semiannual period of 1996).

The FDIC considers that it is appropriate to regard the AADAs of these institutions as having been likewise reduced for insurance purposes on the effective date of the Funds Act. In this respect, the final rule maintains the relationship between the AADA *for* a semiannual period (which determines the assessment for that period) and the AADA *with respect to* the prior semiannual period (which determines the allocation of loss between the BIF and the SAIF if an Oakar institution fails in that prior semiannual period, and which can be affected immediately by certain changes such as acquisitions of secondary-fund deposits).

The Funds Act directs the FDIC to determine the denominator of the reserve ratio for October 1, 1996, by using the aggregate volume of deposits reported in the quarterly reports of condition for the first quarter of 1996. In accordance with section 2702(b)(3) of the Funds Act, which authorizes the Board to consider ''any other factors that the Board of Directors deems appropriate'', the FDIC has determined to reduce the aggregate volume so reported by 20 percent, in order to reflect the lower insurance liability experienced by the SAIF as of October 1, 1996. The reduction is $28.2 billion.

[6] The Funds Act discounts SAIF-insured deposits of certain BIF-member Oakar banks by 20 percent, or $34.4 billion. *Id*. section 2702(h)(1). It also discounts the deposits of certain ''converted associations'' by 20 percent, or $2.4 billion. *Id*. section 2702(j).

[7] The Funds Act exempts certain institutions from the special assessment, removing an estimated $400 million from the SAIF assessment base. *Id*. section 2702(f)(3). It also authorizes the Board to exempt institutions that the Board classifies as ''weak''. The Board has established criteria for making that determination; several institutions satisfy those criteria, and have been exempted. As a result, an estimated $3.6 billion is removed from the SAIF assessment base. *Id*. section 2702(f)(1) and (2).

identified as ''weak'' may ask for a review of that status, and may provide additional documentation to the FDIC to support its request for reclassification. The FDIC expects to inform any such institution promptly of the FDIC's final determination.

The FDIC expects to send out invoices to all affected institutions on November 13, 1996.

Institutions will pay the special assessment by the same means as they pay their regular semiannual assessments—that is, through the accounts they have designated for that purpose. Each institution must fund its designated account with enough money to pay the amount specified in its invoice. The FDIC will debit each institution's designated account on November 27, 1996.

7. Institutions Facing Hardship

Section 2702(g) of the Funds Act allows certain institutions to elect to pay the special assessment in two installments. The FDIC must consent to the election.

In order to be eligible to make the election, either the institution itself or the depository institution holding company that controls the institution must be subject to terms or covenants in debt obligations or preferred stock outstanding on September 13, 1995. The FDIC must then determine whether payment of the entire special assessment on November 27 would pose a significant risk of causing the depository institution or its depository institution holding company to default on or to violate any of these terms or covenants.

If the institution meets these criteria, the FDIC must decide whether to grant its approval. The FDIC will base its decision on the entire circumstances of the proposed election, including but not limited to the election's effects on the institution, on the SAIF, and on the public interest.

If an institution receives approval to make the election, the institution must pay the first installment on November 27. The first installment is equal to half the special assessment the electing institution would otherwise have to pay.

The second installment is 51 percent of the amount computed by applying the rate for the special assessment to the electing institution's SAIF-assessable deposits either as of March 31, 1996, or as of such other date as the Board may determine. The Board has determined to apply the rate to the institution's SAIF-assessable deposits as of December 31, 1996, on the ground that it is preferable to use current data for the second installment. The Funds Act evidently contemplates the use of current data for this purpose.

The Board has chosen March 31, 1997, as the appropriate date for the second installment. This date is ''practicable'' because institutions make a regular quarterly payment on that date. The FDIC will be able to adapt its regular assessment procedures to the collection of the second installment, thereby minimizing inconvenience both to the FDIC and to the institution. Moreover, it is the first such date that is more than 15 days after the December 31, 1996, assessment-base determination day.

An electing institution must also pay a supplemental special assessment at the same time as it pays the second installment. The supplemental amount is computed as follows: the FDIC must determine whether the institution's SAIF-assessable deposits have decreased from March 31, 1995, to the December 31, 1996, assessment-base determination day, and if so, by how much; multiply the amount of the decrease by 95 percent; and then multiply the result by one-half the rate for the special assessment.

B. Permanent Reduction in AADAs for Certain Oakar Banks

Section 2702(*i*) of the Funds Act makes a permanent change in the computation of the AADAs of certain Oakar banks. The general rule is that the initial component of an Oakar bank's AADA is equal in value to the amount of SAIF-insured deposits that the Oakar bank acquires from another institution pursuant to the Oakar Amendment. Section 2702(*i*) of the Funds Act specifies that, for certain Oakar banks, the amount of such deposits used to fix that initial component is to be reduced by 20 percent in the case of transactions occurring on or before March 31, 1995.

The effect of the change is to reduce the AADAs of the affected Oakar banks prospectively and permanently. The change applies for the purpose of computing regular semiannual assessments for the first semiannual period of 1997 and thereafter.

The change affects any Oakar bank that, as of June 30, 1995, either:

—had an AADA that was less than 50 percent of the institution's deposits of that institution as of June 30, 1995, *see* FDI Act section 5(d)(3)(K)(i), 12 U.S.C. 1815(d)(3)(K)(i); or

—had more than $5 billion in total assessable deposits, had an AADA that was less than 75 percent of its total assessable deposits, and belonged to a bank holding company system that, in the aggregate, had more BIF-insured deposits than SAIF-insured deposits, *see* FDI Act section 5(d)(3)(K)(ii), 12 U.S.C. 1815(d)(3)(K)(ii).

The final rule amends part 327 to incorporate this statutory change.

II. Effective Date

The final rule is effective upon enactment by the Board. The FDIC is choosing to make the rule effective immediately, and not upon publication in the Federal Register, because the Funds Act directs the Board to impose the special assessment, and further specifies that the special assessment is to be ''due'' on October 1. The FDIC wishes to issue invoices to institutions promptly; the rule provides the foundation for the invoices.

For the reasons given below, the FDIC has determined that it is impracticable and unnecessary, and contrary both to public interest and to the intent of the Funds Act, to incur the delay that the ordinary process of notice and public comment would entail. In addition, the FDIC has further determined for the reasons given below that there is good cause for the rule to be made immediately effective, and not after a 30-day delay following publication of the final rule. The FDIC is therefore issuing this rule without notice and public comment (see 5 U.S.C. 553(b)(3)(B)) or a delayed effective date (see *id*. 553(d)(3)(C)).

The FDIC considers that it is impracticable—and contrary to the public interest and to the intent of Congress—to incur either one of the delays because the short deadlines prescribed by the Funds Act. The Funds Act requires the Board to impose a special assessment which is to be due on October 1, 1996, and which is payable not later than November 29, 1996 (sixty days after the date of enactment of the Funds Act); requires the FDIC to allow certain discounts and exemptions from the special assessment; and permits the FDIC to exempt ''weak'' institutions from the special assessment. In order to comply with these directives, the FDIC must undertake a number of administrative tasks that are mechanical in nature: computing each institution's assessment; notifying the institution of the amount to be paid, and date of payment; allowing institutions time to consider and perhaps question the amount; resolving questions not involving material disagreements; and arranging for the collection of the assessments through the payments system. These tasks require careful preparation and time for proper execution. It would not be possible for the FDIC to carry out this mandate within the prescribed deadline if the final rule were subjected either to the notice-and-comment process or to a delayed effective date.

The FDIC further considers that it is unnecessary to seek prior notice and comment on the rule—and to incur the delay thereof—because the FDIC is already in full possession of the information needed to determine the amount of the assessment and the rate that is needed to raise that amount.[8] The Funds Act further gives the Board ''sole discretion'' to exempt institutions that the Board classifies as ''weak''. *Id.* section 2702(f)(1). Accordingly, the notice-and-comment procedure would not serve any useful purpose.

The delayed effective date is also unnecessary, and, therefore, good cause exists for dispensing with the requirement. The purpose of the delay is to give affected parties time to prepare for the rule's coming into effect and take whatever action they deem necessary. In this case, the only requirement imposed by the rule on affected parties is the payment of money. The final rule is being issued more than 30 days before the payment is due, and provides the equivalent of a 30-day delayed effective date. Although the rate is subject to adjustment before final invoices are sent out, any such adjustment is expected to be limited and will be announced 14 days before the special assessment is collected. Moreover, specific provision is made in the rule for institutions for which payment might present a problem. Finally, delaying the effective date would be counterproductive since it would preclude the FDIC from sending out the invoices at the earliest possible date and giving affected parties the maximum amount of time to arrange for payment.

The Funds Act also makes a permanent change in the method for determining the initial component of the AADAs of certain Oakar banks. *Id.* section 2702(*i*); *see* 12 U.S.C. 1815(d)(3)(K). The final rule incorporates the change into the FDIC's assessment regulation. This aspect of the final rule is purely ministerial, however; notice and comment would serve no useful purpose. In addition, this aspect of the final rule is exempt from the notice-and-comment requirement on another ground: incorporating the statutory language into the regulation is purely interpretative, being necessary to conform the regulation to the statute.

III. Paperwork Reduction Act

The FDIC expects to contact all institutions that initially appear to qualify as weak institutions under the guidelines, and also all other institutions that would initially appear to so qualify upon payment of the special assessment. The FDIC will not present identical questions to the subject institutions, however, but will rather conduct an informal inquiry regarding the condition of the particular institution. Accordingly, the FDIC is not engaging in a ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995. See 44 U.S.C. 3502(3).

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, does not apply to the final rule. The RFA only applies to rulemaking for which notice and comment are required. *See id.* section 603 and 604. For the reasons given above, the Administrative Procedure Act (*id. 553*) does not require notice of proposed rulemaking; no other provision of law does so either.

Furthermore, the RFA's definition for the term ''rule'' excludes ''a rule of particular applicability relating to rates''. *Id.* 601(2). The FDIC considers that the exclusion governs the final rule, because the final rule implements Congress' command to impose a one-time special assessment on SAIF-assessable institutions. The RFA's requirements regarding an initial and final regulatory flexibility analysis (*id.* sectio603 and 604) do not apply on this ground as well.

Finally, the RFA's legislative history indicates that its requirements are inappropriate to this proceeding. The RFA focuses on the ''impact'' that a rule will have on small entities. The legislative history shows that the ''impact'' at issue is a differential impact—that is, an impact that places a disproportionate burden on small businesses:

> Uniform regulations applicable to all entities without regard to size or capability of compliance have often had a disproportionate adverse effect on small concerns. The bill, therefore, is designed to encourage agencies to tailor their rules to the size and nature of those to be regulated whenever this is consistent with the underlying statute authorizing the rule.

126 Cong. Rec. 21453 (1980) (''Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299'').

The final rule does not impose a uniform cost or requirement on all institutions regardless of size. Rather, it imposes an assessment that is directly proportional to each institution's size. Nor does the final rule cause an affected institution to incur any ancillary costs of compliance—such as the need to develop new recordkeeping or reporting systems, to seek out the expertise of specialized accountants, lawyers, or managers—that might cause disproportionate harm to small entities. As a result, the purposes and objectives of the RFA are not affected, and neither an initial nor a final regulatory flexibility analysis is required.

V. Riegle Community Development and Regulatory Improvement Act of 1994

Section 302(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 requires that, as a general rule, new and amended regulations that impose additional reporting, disclosure, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter. *See* 12 U.S.C. 4802(b). This restriction is inapplicable to the final rule, which does not impose such additional or new requirements.

VI. Congressional Review

The FDIC is submitting a report to each House of the Congress and to the Comptroller General with respect to the final rule in conformity with the procedures specified in 5 U.S.C. 801. The FDIC is submitting the report voluntarily and not under compulsion of the statute, however. The term ''rule''—as that term is used in section 801—excludes ''any rule of particular applicability, including a rule that proves or prescribes for the future rates * * * .'' *Id.* 804(3). The FDIC considers that the final rule is governed by this exclusion, because the final rule implements Congress' command to impose a one-time special assessment on SAIF-assessable institutions. Accordingly, the requirements of *id.* sections 801–808 do not apply.

In any case, for the reasons given above regarding the need for notice and comment, the FDIC has for good cause found that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest. The final rule will therefore take effect on the date specified herein. *See id.* section 808.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations.

For the reasons set out in the preamble, 12 CFR part 327 is amended as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 is revised to read as follows:

[8] In addition, the Funds Act gives the Board ''sole discretion'' to determine the rate at which the special assessment will be imposed. Funds Act section 2702(a).

Authority: 12 U.S.C. 1441, 1441b, 1813, 1815, 1817–1819; Deposit Insurance Funds Act of 1996, Pub. L. 104–208, 110 Stat. 3009 *et seq.*

2. Section 327.32 is amended by revising paragraphs (a)(2)(i)(A) and (a)(3)(i) and by adding a new paragraph (c) to read as follows:

§ 327.32 Computation and payment of assessment.

(a) * * *

(2) * * *

(i) * * *

(A) Except as provided in § 327.43(c)(1), be subject to assessment according to the schedule of assessment rates applicable to SAIF members pursuant to subpart A of this part; and

* * * * *

(3) * * *

(i) The amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction) described in § 327.31(a), but subject to the adjustment specified in paragraph (c) of this section;

* * * * *

(c) *Reduction of deposits acquired by certain institutions.* In the case of a transaction occurring on or before March 31, 1995, the amount determined under paragraph (a)(3)(i) of this section shall be reduced by 20 percent for the purpose of computing the adjusted attributable deposit amount for any semiannual period beginning after December 31, 1996, of a BIF member bank that, as of June 30, 1995:

(1) Had an adjusted attributable deposit amount the value of which was less than 50 percent of the amount of its total deposits; or

(2)(i) Had an adjusted attributable deposit amount the value of which was less than 75 percent of the value of its total deposits;

(ii) Had total deposits greater than $5,000,000,000; and

(iii) Was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the BIF greater than the aggregate amount of deposits insured or treated as insured by the SAIF.

3. A new subpart C, consisting of §§ 327.41 through 327.45, is added to part 327 to read as follows:

Subpart C—Special Assessment

Sec.
327.41 Special assessment imposed.
327.42 Assessment base.
327.43 Exemptions from the special assessment.
327.44 Hardship exception.
327.45 Definitions.
Appendix A to Subpart C of Part 327—Guidelines for Exemption of Weak Institutions

Subpart C—Special Assessment

§ 327.41 Special assessment imposed.

(a) *Payment required.* Except as provided in §§ 327.43 and 327.44, each insured depository institution shall pay a special assessment on the SAIF-assessable deposits that the institution held on March 31, 1995, in accordance with the provisions of this subpart C.

(b) *Rate.* Except as provided in § 327.44, the rate for the special assessment shall be 0.657 percentum, subject to such adjustments as the Corporation may deem necessary to cause the Savings Association Fund reserve ratio to achieve the designated reserve ratio for the SAIF on October 1, 1996.

(c) *Due date.* The special assessment shall be due on October 1, 1996.

(d) *Payment date.* Except as provided in § 327.44, each institution shall pay the special assessment to the Corporation on November 27, 1996. Each institution shall make the payment in the manner and according to the procedures set forth in paragraph (e) of this section.

(e) *Procedures*—(1) *Preliminary and final invoices; requests for correction of amount due.* The Corporation will issue a preliminary invoice to each institution showing the amount expected to be due from the institution and the computation of that amount. An institution may request the Corporation to revise the amount due; any such request must be made in writing on or before November 1, 1996. The Corporation will issue a final invoice to each insured depository institution no later than 14 days prior to the date specified in paragraph (d) of this section, showing the amount due from the institution and the computation of that amount.

(2) *Funding of designated accounts.* Each insured depository institution shall take all actions necessary to allow the Corporation to debit the invoiced amount from the deposit account designated by the institution pursuant to § 327.3(a)(2). Each insured depository institution shall, prior to the date specified in paragraph (d) of this section, ensure that funds in an amount at least equal to the invoiced amount are available in the designated account on that date for direct debit by the Corporation. Failure to take any such action or to provide such funding of the account shall be deemed to constitute nonpayment of the amount due.

(3) *Manner of payment.* The Corporation will cause the invoiced amount to be directly debited on the date specified in paragraph (d) of this section from the deposit account designated by the insured depository institution pursuant to § 327.3(a)(2).

(f) *Deposit of proceeds.* The proceeds of the special assessment, and of the assessments paid pursuant to § 327.44, shall be deposited in the SAIF.

§ 327.42 Assessment base.

(a) *In general.* Except as provided in paragraphs (b) and (c) of this section, an institution's special assessment shall be computed with reference to the institution's SAIF assessment base on March 31, 1995.

(b) *''Converted'' institutions.* In the case of each of the following SAIF members, the volume of SAIF-insured deposits used to determine the institution's SAIF assessment base on March 31, 1995, shall be reduced by 20 percent:

(1) A federal savings association:

(i) That had deposits subject to assessment by the SAIF which did not exceed $4,000,000,000, as of March 31, 1995; and

(ii) That had been, or is a successor by merger, acquisition, or otherwise to an institution that had been, a state savings bank, the deposits of which were insured by the Corporation prior to August 9, 1989, which institution converted to a federal savings association pursuant to section 5(*i*) of the Home Owners' Loan Act, 12 USC 1464(*i*), prior to January 1, 1985;

(2) A SAIF-member state depository institution that had been a state savings bank prior to October 15, 1982, and was a federal savings association on August 9, 1989;

(3) An insured bank that:

(i) Was established de novo in order to acquire the deposits of a savings association in default or in danger of default;

(ii) Did not open for business before acquiring the deposits of such savings association; and

(iii) Was a SAIF member as of the date of enactment of the Deposit Insurance Funds Act of 1996; and

(4) An insured bank that:

(i) Resulted from a savings association before December 19, 1991, in accordance with section 5(d)(2)(G) of the FDI Act; and

(ii) Had an increase in its capital in conjunction with the conversion in an amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion.

(c) *Oakar banks.* The special assessment shall be computed with

reference to that portion of an institution's SAIF assessment base for March 31, 1995, which is equal to 80 percent of the institution's adjusted attributable deposit amount for that date, if the institution is a BIF member that, as of June 30, 1995:

(1) Had an adjusted attributable deposit amount that was less than 50 percent of its total domestic deposits; or

(2)(i) Had an adjusted attributable deposit amount equal to less than 75 percent of its total assessable deposits;

(ii) Had total assessable deposits greater than $5,000,000,000; and

(iii) Was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the BIF greater than the aggregate amount of deposits insured or treated as insured by the SAIF.

§ 327.43 Exemptions from the special assessment.

(a) *Mandatory exemptions.* The following institutions are exempt from the special assessment:

(1) An institution that was in existence on October 1, 1995, and held no SAIF-assessable deposits prior to January 1, 1993. For this purpose, an institution shall be deemed to have held SAIF-assessable deposits prior to January 1, 1993, if:

(i) The institution directly held SAIF-assessable insured deposits prior to that date; or

(ii) The institution succeeded to, acquired, purchased, or otherwise held any SAIF-assessable deposits as of September 30, 1996, that were SAIF-assessable deposits prior to January 1, 1993;

(2) A federal savings bank that:

(i) Was established de novo in April 1994 in order to acquire the deposits of a savings association which was in default or in danger of default; and

(ii) Received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act in connection with the acquisition of any such savings association; and

(3) A savings association, the deposits of which are insured by the SAIF, that:

(i) Prior to January 1, 1987, was chartered as a federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986; and

(ii) As of the date of that transaction, had assets of less than $150,000,000.

(b) *Weak institutions.* If an institution meets any criterion for designation as ''weak'' under the guidelines set forth in appendix A of this subpart, the institution shall generally be exempt from the special assessment, unless the exemption would not materially reduce risk to the SAIF. Authority to determine whether an institution meets any such criterion, authority to issue orders exempting ''weak'' institutions, authority to determine whether the risk to the SAIF would not be materially reduced if an institution qualifying for exemption as a ''weak'' institution were nevertheless allowed to pay the special assessment, and authority to determine whether an institution rated 4 or 5 by its appropriate federal banking agency would present a substantial risk of loss to the SAIF unless the institution were exempt from the special assessment, are delegated to the Director of the Division of Supervision.

(c) *Semiannual assessments payable to the SAIF*—(1) *Special rate schedule.* Except as provided in paragraph (c)(2) of this section, an institution that is exempt from the special assessment pursuant to paragraph (a) or (b) of this section shall pay regular semiannual assessments to the SAIF from the first semiannual period of 1996 through the second semiannual period of 1999 according to the schedule of rates specified in § 327.9(d)(1) as in effect for SAIF members on June 30, 1995.

(2) *Termination of special rate schedule.* An institution that makes a pro-rata payment of the special assessment shall cease to be subject to paragraph (c)(1) of this section. The pro-rata payment must be equal to the following product: 16.7 percent of the amount the institution would have owed for the special assessment, multiplied by the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

§ 327.44 Hardship exception.

(a) *Applicability.* This section applies to an insured depository institution if:

(1) The institution, or a depository institution holding company that controls the institution, is subject to terms or covenants in any debt obligation or preferred stock outstanding on September 13, 1995; and

(2) The Corporation has determined that payment of the special assessment in accordance with the provisions of § 327.41 would pose a significant risk of causing the depository institution or its depository institution holding company to default on or to violate any term or covenant specified in paragraph (a)(1) of this section.

(b) *Election.* An insured depository institution may elect, with the prior approval of the Corporation, to pay the special assessment prescribed by the Deposit Insurance Funds Act of 1996 in two installments in accordance with the provisions of this section. In deciding whether to grant or withhold approval, the Corporation will consider the entire circumstances of the proposed election, including but not limited to the election's effects on the institution, on the SAIF, and on the public interest.

(c) *Procedures*—(1) *Initial assessment*—(i) *Date.* An institution that makes the election specified in paragraph (b) of this section shall pay the initial installment of the special assessment to the Corporation on November 27, 1996.

(ii) *Amount.* The initial installment shall be equal to 50 percent of the amount that the institution would otherwise be required to pay on November 27, 1996, in accordance with § 327.41.

(iii) *Payment procedures.* The procedures set forth in § 327.41(e) shall apply to the payment of the initial installment.

(2) *Second installment*—(i) *Date.* An institution that makes the election specified in paragraph (b) of this section shall pay a second installment to the Corporation on the regular payment date for the second quarterly payment for the first semiannual period of 1997.

(ii) *Amount.* The second installment shall be an amount computed as follows: the SAIF assessment base of the institution on December 31, 1996, multiplied by the rate specified in § 327.41(b), multiplied by 51 percent.

(iii) *Payment procedures.* The procedures set forth in § 327.41(e) shall apply to the payment of the second installment, except that any reference to the date specified in § 327.41(d) shall be deemed to be a reference to the date specified in paragraph (c)(2)(i) of this section, and that any reference to November 1, 1996, shall be deemed to be a reference to February 1, 1997.

(3) *Supplemental assessment*—(i) *Date.* An institution that makes the election specified in paragraph (b) of this section shall pay a supplemental assessment to the Corporation at the same time as the second installment.

(ii) *Amount.* The supplemental assessment shall be an amount computed as follows: the institution's SAIF assessment base for December 31, 1996, shall be subtracted from the institution's SAIF assessment base for March 31, 1995; if the result is greater than zero, the result shall be multiplied by 95 percent; and the product thereof

shall be multiplied by one-half the rate for the special assessment.

(iii) *Payment procedures.* The procedures set forth in § 327.41(e) shall apply to the payment of the supplemental assessment, except that any reference to the date specified in § 327.41(d) shall be deemed to be a reference to the date specified in paragraph (c)(2)(i) of this section, and that any reference to November 1, 1996, shall be deemed to be a reference to February 1, 1997.

§ 327.45 Definitions.

For the purpose of this subpart C:

(a) *BIF; SAIF*—(1) *BIF.* The term *BIF* refers to the Bank Insurance Fund.

(2) *SAIF.* The term *SAIF* refers to the Savings Association Insurance Fund.

(b) *SAIF-assessable deposits.* The term *SAIF-assessable deposits means all deposits that are subject to assessment by the Corporation for deposit in the SAIF, and, in the case of a BIF member, includes that portion of the deposits of the BIF member that is equal to the BIF member's adjusted attributable deposit amount.*

(c) *Deposits held on March 31, 1995.* A deposit is deemed to have been held on March 31, 1995, by an institution if either:

(1) The institution held the deposit on that date; or

(2)(i) The deposit was held by another institution (''transferring institution'') on that date;

(ii) The institution assumed the deposit from the transferring institution after that date, either directly or indirectly; and

(iii) The transferring institution is not an insured depository institution on the payment date specified in § 327.41(d).

(d) *SAIF assessment base.* The term *SAIF assessment base* for any date means that portion of an institution's assessment base for that date that is subject to assessment by the Corporation for deposit in the SAIF.

Appendix A to Subpart C of Part 327—Guidelines for Exemption of Weak Institutions

(a) The Board of Directors of the Corporation has adopted criteria for identifying institutions that are regarded as ''weak'' within the meaning of section 2702(f) of the Deposit Insurance Funds Act of 1996. The Board has determined that granting exemptions to institutions that meet the criteria would generally reduce the risk to the SAIF.

(b) The criteria apply only to institutions that are members of the Savings Association Insurance Fund (SAIF) or that hold deposits that are treated as insured by the SAIF pursuant to section 5(d)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1815(d)(3).

(c) The criteria are as follows:

(1) *Guideline #1: Capital group 3 institutions.* An institution is regarded as ''weak'' if, in the judgment of the Corporation, the institution meets the standards for assignment to capital group 3 (''undercapitalized'') pursuant to § 327.4(a)(1)(iii).

(2) *Guideline #2: Potential capital group 3 institutions.* An institution is regarded as ''weak'' if, in the judgment of the Corporation, the institution would satisfy the criteria set forth in Guideline #1 if the institution were to pay the special assessment imposed under § 327.41(a).

(3) *Guideline #3: Institutions rated 4 or 5.* If an institution has a composite rating of 4 or 5 by its primary supervisor, the institution may request the Corporation to consider whether it would be appropriate to exempt the institution from the special assessment. Such an institution is regarded as ''weak'' if the institution would, after having paid the assessment, present a significant risk of loss to the SAIF for the purpose of section 2(f) of the Funds Act.

By order of the Board of Directors.

Dated at Washington, D.C., this 8th day of October 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–26504 Filed 10–11–96; 10:23 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AAL–4]

Revision of Class D and Class E Airspace; Bethel, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D and Class E airspace at Bethel, AK, to accommodate Visual Flight Rules (VFR) traffic in the Bethel area, landing and departing from Hanger Lake located about 2.5 miles northeast of the Bethel VORTAC. Several Bethel Airport user groups, during public discussion on the decommission of the Bethel Approach Control, requested an exclusion area for Hanger Lake to accommodate VFR landings and takeoffs during Instrument Flight Rules (IFR) weather conditions at Bethel, AK. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate exclusion from Bethel, AK, Class D and Class E airspace to accommodate Bethel user group requirements at Hanger Lake, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On June 24, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Bethel was published in the Federal Register (61 FR 32371). Changes to the Bethel airspace will incorporate an exclusion below 1,100 feet MSL between the 061° radial and the 081° radial from 2.9 nautical miles northeast of the Bethel VORTAC. The changes are required to create a Hanger Lake exclusion area as requested by Bethel Airport user groups for VFR operations when Bethel has IFR weather conditions.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. Therefore, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace area designations are published in paragraph 5000 and the Class E airspace areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class D and Class E airspace located at Bethel, AK, to create a Hanger Lake exclusion area as requested by Bethel Airport user groups for VFR operations when Bethel has IFR weather conditions.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant

regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points*, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

Paragraph 5000 Class D Airspace.

* * * * *

AAL AK D Bethel, AK [Revised]

Bethel Airport, AK
(Lat. 60°46′47″ N, long. 161°50′17″ W)
Bethel VORTAC
(Lat. 60°47′05″ N, long. 161°49′27″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of the Bethel Airport, excluding that portion below 1,100 feet MSL between the 061° radial and the 081° radial from 2.9 miles northeast of the Bethel VORTAC. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

AAL AK E4 Bethel, AK

Bethel Airport, AK
(Lat. 60°46′47″ N, long. 161°50′17″ W)
Bethel VORTAC
(Lat. 60°47′05″ N, long. 161°49′27″ W)

That airspace extending upward from the surface within 3 miles each side of the 022° radial from the Bethel VORTAC, extending from the 4.1-mile radius of the Bethel Airport to 8.2 miles northeast of the airport, within 3.4 miles each side of the Bethel VORTAC 006° radial, extending from the 4.1-mile radius of the Bethel Airport to 11 miles north of the Bethel VORTAC and within 3.5 miles each side of the Bethel VORTAC 213° radial extending from the 4.1-mile radius of the Bethel Airport to 10 miles southwest of the airport, excluding that portion below 1,100 feet MSL between the 061° radial and the 081° radial from 2.9 miles northeast of the Bethel VORTAC.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26464 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–15]

Revision of Class E Airspace; Bettles, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Bettles, AK. The FAA has developed a Global Positioning System (GPS) instrument approach procedure to Runway (RWY) 1 at Bettles, AK. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing instrument approach procedures at Bettles, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 18, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Bettles was published in the Federal Register (61 FR 37408). Revision of the Class E airspace is required for the IFR approach and departure procedures using GPS instrument approach procedures at Bettles, Alaska. This action will provide adequate Class E airspace for IFR operations at Bettles, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published with incorrect mileage radius (4.1) which has been corrected to read '4.2'. The Federal Aviation Administration has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as airport surface areas are published in Paragraph 6002 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Bettles, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing GPS instrument landing and departing procedures to RWY 1.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points,* dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AAL AK E2 Bettles, AK

Bettles Airport, AK
(Lat. 66°54′55″ N, long. 151°31′41″ W)
Bettles VORTAC
(Lat. 66°54′18″ N, long. 151°32′10″ W)

Within a 4.2-mile radius of the Bettles Airport and within 4 miles west of the Bettles VORTAC 227° radial extending from the 4.2-mile radius to 12 miles southwest of the airport and within 4 miles each side of the Bettles VORTAC 212° radial extending from the 4.2-mile radius to 12 miles southwest of the airport and within 2.9 miles each side of the Bettles VORTAC 026° radial extending from the 4.2-mile radius to 7.4 miles north of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26468 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–3]

Revision of Class E Airspace; Sand Point, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Sand Point, AK. The FAA has developed a Global Positioning System (GPS) instrument approach procedure to RWY 31 and a Non-directional beacon (NDB) instrument approach procedure to RWY 13 at Sand Point, AK. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing instrument approach procedures at Sand Point, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Sand Point was published in the Federal Register (61 FR 34397). Revision of the Class E airspace is required for the IFR approach and departure procedures using GPS and NDB instrument approach procedures at Sand Point, Alaska. This action will provide adequate Class E airspace for IFR operations at Sand Point, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published with incorrect coordinates for Sand Point Airport which have been corrected to read: lat. 55°18′54″ N, long. 160°31′04″ W. The FAA has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as 700/1200 foot transition areas are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Sand Point, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Sand Point, AK [Revised]

Sand Point Airport, AK
(Lat. 55°18′54″ N, long. 160°31′04″ W)
Borland NDB/DME
(Lat. 55°18′56″ N, long. 160°31′06″ W)
Sand Point MLS

(Lat. 55°18′47″ N, long. 160°31′10″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Sand Point Airport and within 3 miles each side of the 175° bearing of the Borland NDB/DME extending from the 6.4-mile radius to 13.9 miles south of the airport and within 5.8 miles either side of the 326 azimuth from the Sand Point MLS extending from the 6.4 mile radius to 17 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4 miles west and 14 miles east of the 175° bearing from the Borland NDB/DME extending from the NDB/DME to 22 miles south of the NDB/DME and within 9 miles west and 7 miles east of the 330° bearing from the Borland NDB/DME extending from the NDB/DME to 23 miles north of the NDB/DME.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26463 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–2]

Revision of Class E Airspace; Wrangell, St. Paul Island, Petersburg, and Sitka, AK; Establishment of Class E Airspace at Noatak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Wrangell, St. Paul Island, Petersburg, and Sitka, AK, and establishes Class E airspace at Noatak, AK. The FAA has developed Global Positioning System (GPS) instrument approach procedures at Wrangell Airport, James A. Johnson Airport (Petersburg), and Sitka Airport; a Microwave Landing System (MLS) approach procedure at St. Paul Island Airport; and a Non-directional beacon (NDB)/Distance Measuring Equipment (DME) approach procedure at Noatak Airport, Alaska. Changes to the Wrangell airspace incorporated a new Wrangell Localizer course, provided new segment widths, and will declutter the chart depiction. Changes to the Petersburg airspace incorporated protected airspace for transition to approach, provided new segment widths to Fredericks Point NDB 140° bearing, corrected the misspelling of Level Island, and changed the altitude needed for the missed approaches. Changes to the Sitka airspace incorporated protected airspace for the holding pattern. Changes to the St. Paul Island airspace incorporated new coordinates for the airport and non-directional beacon. Noatak Class E airspace is established for NDB/DME instrument approach procedures. This action changes the Noatak Airport status from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR) concurrent with the publication of the NDB/DME instrument approach. The areas will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On June 24, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Wrangell, St. Paul Island, Petersburg, and Sitka, AK, and establish Class E airspace at Noatak, AK was published in the Federal Register (61 FR 32372). Revision of the Class E airspace is required for the IFR approach and departure procedures using Global Positioning System (GPS) at Wrangell Airport, James A. Johnson Airport (Petersburg), and Sitka Airport; a Microwave Landing System (MLS) approach procedures at St. Paul Island Airport; and NDB/DME approach procedures at Noatak, Alaska. This action will provide adequate Class E airspace for IFR operations at Wrangell, St. Paul Island, Petersburg, Sitka, and Noatak, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published with incorrect coordinates which have been corrected: Noatak Airport (67°33′44″ N, 162°58′31″ W), Sitka Airport (57°02′50″ N, 135°21′42″ W), Sitka VORTAC (56°51′34″ N, 135°33′05″ W), St. Paul Island Airport (57°10′02″ N, 170°13′14″ W), and St. Paul Island Localizer (57°10′45″ N, 170°13′00″ W). The coordinates for Wrangell NDB were omitted and are 56°29′13″ N, 132°23′16″ W. The FAA has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as airport surface areas are published in Paragraph 6002 and 700/1200 foot transition areas are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Wrangell, St. Paul Island, Petersburg, and Sitka, AK, and establishes Class E airspace at Noatak, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace

Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AAL AK E2 Petersburg, AK [New]

Petersburg Airport, AK
(Lat. 56°48′06″ N, long. 132°56′43″ W)

Within a 4.1-mile radius of the James A. Johnson Airport, Petersburg, Alaska. The Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

AAL AK E2 Wrangell, AK [New]

Wrangell Airport, AK
(Lat. 56°29′04″ N, long. 132°22′11″ W)

Within a 4.1-mile radius of the Wrangell Airport, Alaska. The Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

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

* * * * *

AAL AK E5 Wrangell, AK [Revised]

Wrangell Airport, AK
(Lat. 56°29′04″ N, long. 132°22′11″ W)
Wrangell Localizer
(Lat. 56°29′03″ N, long. 132°21′45″ W)
Level Island VOR/DME
(Lat. 56°28′04″ N, long. 133°04′59″ W)
Wrangell NDB
(Lat. 56°29′13″ N, long. 132°23′16″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Wrangell Airport and within 2.5 miles south and 3.5 miles north of the Wrangell Localizer front course extending from the 6.5-mile radius to 17.5 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 6 miles either side of the Wrangell Localizer front course extending from 14.5 miles west of the airport to 25 miles west of the airport and within 4 miles each side of the Level Island VOR/DME 086° radial extending from the VOR/DME to the Localizer; and within 5 miles west and 6 miles east of the 148° bearing from the Wrangell NDB extending to 25 miles southeast of the airport; and that airspace extending upward from 5,700 feet MSL within 32 miles of the Level Island VOR/DME extending clockwise from the VOR/DME 327° radial to the VOR/DME 035° radial, excluding that airspace within the Petersburg, AK, Class E airspace area.

* * * * *

AAL AK E5 Petersburg, AK [Revised]

Petersburg Airport, AK
(Lat. 56°48′06″ N, long. 132°56′43″ W)
Level Island VOR/DME
(Lat. 56°28′04″ N, long. 133°04′59″ W)
Petersburg Localizer
(Lat. 56°48′02″ N, long. 132°55′34″ W)
Fredericks Point NDB
(Lat. 56°47′32″ N, long. 132°49′15″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Petersburg Airport; and that airspace extending upward from 1,200 feet above the surface within 4 miles east and 7 miles west of the Petersburg Localizer front course extending from the 6.5-mile radius to 51 miles north of the Level Island VOR/DME and within 4 miles northeast and 5 miles southwest of the Fredericks Point NDB 140° bearing extending from the 6.5-mile radius to 10 miles southeast of the NDB; and that airspace extending upward from 3,300 feet MSL within 5 miles either side of the Level Island VOR/DME 013° radial extending from the VOR/DME to the 6.5-mile radius; and that airspace extending upward from 4,200 feet MSL within 28.6 miles of the Level Island VOR/DME extending clockwise from the VOR/DME 011° radial to the 148° radial; and that airspace extending upward from 5,700 feet MSL within 51 miles of the VOR/DME extending clockwise from the Level Island VOR/DME 326° radial to the 011° radial; excluding that airspace within the Wrangell, AK, and Sitka, AK, Class E airspace areas.

* * * * * *

AAL AK E5 Sitka, AK [Revised]

Sitka Airport, AK
(Lat. 57°02′50″ N, long. 135°21′42″ W)
Biorka Island VORTAC
(Lat. 56°51′34″ N, long. 135°33′05″ W)
Sitka Localizer
(Lat. 57°02′53″ N, long. 135°21′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Sitka Airport and within 4 miles each side of the 029° and 209° radials of the Biorka Island VORTAC extending from the 6.6-mile radius to 1 mile south of the VORTAC and within a 14-mile radius of the Biorka Island VORTAC extending clockwise from the 127° radial to the 323° radial and within 4 miles west and 8 miles east of the Biorka Island VORTAC 209° radial extending from the 14-mile radius to 16 miles southwest of the VORTAC and within 4 miles east and 6 miles west of the Sitka Localizer front course extending from the Sitka Localizer to 22 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 40-mile radius of the Biorka Island VORTAC; and that airspace extending upward from 5,500 feet MSL within an 85-mile radius of the VORTAC; excluding that airspace within Control 1487L; more that 12 miles from the shoreline; and within the Juneau, AK, Petersburg, AK, and the Ketchikan, AK, Class E airspace areas.

* * * * *

AAL AK E5 St. Paul Island, AK [Revised]

St. Paul Island Airport, AK
(Lat. 57°10′02″ N, long. 170°13′14″ W)
St. Paul Localizer
(Lat. 57°10′45″ N, long. 170°13′00″ W)
St. Paul NDB/DME
(Lat. 57°09′28″ N, long. 170°13′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the St. Paul Island Airport and within 4 miles west and 8 miles east of the St. Paul Localizer front course extending from 4 miles south of the St. Paul NDB/DME to 20 miles south of the NDB/DME and within 4 miles east and 8 miles west of the St. Paul Localizer back course extending from 5 miles north of the NDB/DME to 21 miles north of the NDB/DME and within 4 miles east and 8 miles west of the 018° bearing from the NDB/DME extending from 6 miles north of the NDB/DME to 22 miles north of the NDB/DME; and that airspace extending upward from 1,200 feet above the surface within 14 miles of the NDB/DME.

* * * * *

AAL AK E5 Noatak, AK [New]

Noatak Airport, AK
(Lat. 67°33′44″ N, long. 162°58′31″ W)
Noatak NDB/DME
(Lat. 67°34′19″ N, long. 162°58′26″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Noatak Airport and within 4 miles either side of the 197° bearing from the Noatak NDB/DME from the 6.5-mile radius to 10 miles southwest of the NDB/DME; and that airspace extending upward from 1,200 feet above the surface within 4 miles either side of the 197° bearing from the Noatak NDB/DME extending from the 6.5-mile radius to 14 miles southwest of the NDB/DME and within 4 miles east and 5 miles west of the 017° bearing from the NDB/DME extending from the 6.5-mile radius to 11 miles northeast of the NDB/DME.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26462 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 95–AAL–4]

Revision of Class E Airspace; Ketchikan, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Ketchikan, AK. The FAA has developed a Global Positioning System (GPS) instrument approach procedure to RWY 31 and established a Special Visual Flight Rules (VFR) seaplane holding area at Ward Cove at Ketchikan, AK. This action is intended to provide adequate controlled airspace to contain instrument flight rule (IFR)

operations for aircraft executing instrument approach procedures and provide Special VFR seaplane holding at Ketchikan, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Ketchikan was published in the Federal Register (61 FR 34391). Revision of the Class E airspace is required for the IFR approach and departure procedures using GPS at Ketchikan, AK, and required for Special VFR seaplane holding at Ward Cove, Ketchikan, AK. This action will provide adequate controlled airspace for IFR operations and Special VFR seaplane holding at Ketchikan, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published without the coordinates for Clam Cove NDB, which has been added: lat. 55°20′44″ N, long. 131°41′47″ W. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as airport surface areas are listed in paragraph 6002 and airspace designated as 700/1200 foot transition areas are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Ketchikan, AK, to provide controlled airspace extending upward from the surface area for aircraft executing instrument landing and departing procedures and Special VFR operations at Ward Cove.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AAL AK E2 Ketchikan, AK [Revised]

Ketchikan International Airport, AK
(Lat. 55°21′20″ N, long. 131°42′49″ W)
Ketchikan Localizer
(Lat. 55°20′51″ N, long. 131°42′00″ W)

Within a 3-mile radius of the Ketchikan International Airport and within 1 mile each side of the Ketchikan localizer northwest/southeast courses extending from the 3-mile radius to 4.6 miles northwest and 4.1 miles southeast of the airport excluding that airspace beyond 2.5-miles of the Ketchikan International Airport beginning 1 mile east of the Ketchikan localizer northwest course clockwise to the 350° bearing from the Ketchikan International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

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

* * * * *

AAL AK E5 Ketchikan, AK [Revised]

Ketchikan International Airport, AK
(Lat. 55°21′20″ N, long. 131°42′49″ W)
Annette Island VORTAC
(Lat. 55°03′38″ N, long. 131°34′42″ W)
Ketchikan Localizer
(Lat. 55°20′51″ N, long. 131°42′00″ W)
Clam Cove NDB
(Lat. 55°20′44″ N, long. 131°41′47″ W)

That airspace extending upward from 700 feet above the surface within 2.0 miles each side of the Ketchikan Localizer east course extending from the Ketchikan Localizer to 9.0 miles southeast of the Ketchikan International Airport and within 1.8 miles each side of the 353° radial of the Annette Island VORTAC extending from 11 miles north of the VORTAC to the Ketchikan Localizer east course and within 1.9 miles either side of the Ketchikan Localizer west course extending from the localizer to 6.7 miles west of the airport; and that airspace extending upward from 1,200 feet above the surface within a 12-mile radius of the Annette Island VORTAC and within 10 miles east of the 169° bearing from the Clam Cove NDB extending from the NDB to 10 miles southeast of the airport; and that airspace extending upward from 4,700 feet MSL within 13.2 miles east and 10.5 miles west of the 165° radial of the Annette Island VORTAC extending from the VORTAC to the U.S.-Canada border; and that airspace extending upward from 5,200 feet MSL within 10 miles either side of the 349° bearing from the Clam Cove NDB extending to 50 miles north of the airport; and that airspace extending upward from 5,700 feet MSL within 15.6 miles south of the 311° radial of the Annette Island VORTAC extending from 15.8 miles west of the VORTAC to 56.8 miles west of the VORTAC and within 9 miles north and 14 miles south of the Ketchikan Localizer west course extending from 4.3 miles west of the airport to 42.7 miles west of the airport.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26461 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 96–AAL–10]

Establishment of Class E Airspace; Nuiqsut, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Nuiqsut Airport, AK. The development of a Global Positioning System (GPS) instrument approach procedure to Runway (RWY) 4 and 22 at Nuiqsut Airport has made this action necessary. The airport status will change from a visual flight rules (VFR) to an instrument flight rules (IFR) airport. The intended effect of this action is to provide adequate controlled airspace for IFR operations at Nuiqsut Airport, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Nuiqsut was published in the Federal Register (61 FR 34393). The development of GPS instrument approach procedures to RWY 4 and 22 at Nuiqsut Airport, AK, has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published with incorrect coordinates which have been corrected to read: Nuiqsut Airport (lat. 70°12′38″ N, long. 151°00′17″ W). The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as 700/1200 foot transition areas are published in Paragraph 6005 of Federal Aviation Administration Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace located at Nuiqsut, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures. The airport VFR status will change to IFR.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Nuiqsut, AK [New]

Nuiqsut Airport, AK
(Lat. 70°12′38″ N, long. 151°00′17″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Nuiqsut Airport.

* * * * *

Issued in Anchorage, AK, on October 8, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26476 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 96–AAL–8]

Revision of Class E Airspace; Cordova, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Cordova, AK. The FAA has developed a Required Navigation Performance (RNP) instrument approach procedure to Merle K. (Mudhole) Smith Airport, Cordova, AK. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing instrument approach procedures at Merle K. (Mudhole) Smith Airport, Cordova, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Merle K. (Mudhole) Smith was published in the Federal Register (61 FR 34397). Revision of the Class E airspace is required for the IFR approach and departure procedures using RNP instrument approach procedures at Merle K. (Mudhole) Smith Airport, Cordova, Alaska. This action will provide adequate Class E airspace for IFR operations at Cordova, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No comments to the proposals were received. However the proposal was published with incorrect coordinates which have been corrected to read: Merle K. (Mudhole) Smith Airport (lat. 60°29′31″ N, long. 145°28′40″ W) and Merle K. (Mudhole) Smith Localizer (lat 60°29′51″ N, long. 145°30′00″ W). The FAA has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as 700/1200 foot transition areas are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Merle K. (Mudhole) Smith Airport, Cordova, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing RNP instrument procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Cordova, AK [Revised]

Cordova, Merle K. (Mudhole) Smith Airport, AK
(Lat. 60°29′31″ N, long. 145°28′40″ W)
Glacier River NDB
(Lat. 60°29′56″ N, long. 145°28′28″ W)
Merle K. (Mudhole) Smith Localizer
(Lat. 60°29′51″ N, long. 145°30′00″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Merle K. (Mudhole) Smith Airport and within 4 miles each side of the 222° bearing of the Glacier River NDB extending from the 6.6-mile radius to 20 miles southwest of the airport and within 4 miles each side of the 142° bearing from the NDB extending from the 6.6-mile radius to 15.6 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 6 miles each side of the Merle K. (Mudhole) Smith Localizer east course extending from the localizer to 40.6 miles east of the airport and within 4 miles each side of the 268° bearing from the NDB extending from the Glacier River NDB to 33.6 miles west of the airport and that airspace within 4 miles west and 8 miles east of the 222° bearing from the NDB extending from 10.3 miles southwest of the NDB to 26.3 miles southwest of the NDB and within 10 miles south and 5 miles north of the 299° bearing from the Glacier River NDB extending from the 6.6-mile radius to 25 miles northwest of the airport; excluding the airspace more than 12 miles beyond the shoreline.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26475 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 96–AAL–5]

Establishment of Class E Airspace; Buckland, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Buckland Airport, AK. The development of a Global Positioning System (GPS) instrument approach procedure to Runway (RWY) 10 at Buckland Airport has made this action necessary. The airport status will change from a visual flight rules (VFR) to an instrument flight rules (IFR) airport. This intended effect of this action is to provide adequate controlled airspace for IFR operations at Buckland Airport, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Buckland was published in the Federal Register (61 FR 34398). The development of GPS instrument approach procedures at Buckland Airport, AK, has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published with incorrect coordinates which have been corrected to read: Buckland NDB (lat. 65°58′47″ N, long. 161°08′58″ W), Kotzebue VOR/DME (lat. 66°53′08″ N, long. 162°32′24″ W), and Selawik VOR/DME (lat. 66°36′00″ N, long. 159°59′30″ W). The bearings from Kotzebue and Selawik have been corrected from ''Magnetic'' to ''True'' bearings, 154° and 230°. The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American

Datum 83. Class E airspace areas designated as 700/1200 foot transition areas are published in Paragraph 6005 of Federal Aviation Administration Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document would be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace located at Buckland, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures. The airport VFR status will change to IFR.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Buckland, AK [New]

Buckland Airport, AK
(Lat. 65°58′40″ N, long. 161°07′44″ W)
Buckland NDB
(Lat. 65°58′47″ N, long. 161°08′58″ W)
Kotzebue VOR/DME
(Lat. 66°53′08″ N, long. 162°32′24″ W)
Selawik VOR/DME
(Lat. 66°36′00″ N, long 159°59′30″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Buckland Airport; and that airspace extending upward from 1,200 feet above the surface within 6 miles southwest and 4 miles northeast of the 303° bearing of the Buckland NDB extending from the 6.5-mile radius to 21 miles northwest, and 4 miles either side of the Kotzebue VOR/DME 154° radial from the VOR/DME to 10.5 miles northwest on the 303° bearing from the Buckland NDB, and 4 miles either side of the Selawik VOR/DME 230° radial from the VOR/DME to 10.5 miles northwest on the 303° bearing from the Buckland NDB.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26474 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–9]

Revision of Class E Airspace; Cold Bay, Nome, and Tanana, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Cold Bay, Nome, and Tanana, AK. The development of Global Positioning System (GPS) instrument approach procedures to Runway (RWY) 9 and RWY 2 at Nome Airport, and GPS–B and GPS RWY 6 at Ralph M. Calhoun Memorial Airport, Tanana, AK, have made this action necessary. This revision of the Cold Bay Class E airspace corrects discrepancies found in the legal description and aeronautical charts during an airspace review. The intended effect of this action is to provide adequate controlled airspace for IFR operations at the Nome Airport, Ralph M. Calhoun Memorial Airport, Tanana, AK, and correct the Cold Bay, AK, airspace description and depiction.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 17, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Cold Bay, Nome, and Tanana, AK, was published in the Federal Register (61 FR 37231). The development of GPS instrument approach procedures to RWY 9 and 2 at Nome Airport, and GPS–B and GPS RWY 6 at Ralph M. Calhoun Memorial Airport, Tanana, AK, have made this action necessary. This revision of the Cold Bay Class E airspace corrects discrepancies found in the legal description and aeronautical charts during an airspace review.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. Thus, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as airport surface areas are published in Paragraph 6002 of Federal Aviation Administration Order 7400.9D, dated September 4, 1995, and effective September 6, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises Class E airspace located at Cold Bay, Nome, and Tanana, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures.

The Federal Aviation Administration has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points*, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AAL AK E2 Cold Bay, AK [Revised]

Cold Bay Airport, AK
(Lat. 55°12′20″ N, long. 162°43′27″ W)
Cold Bay VORTAC
(Lat. 55°16′03″ N, long. 162°46′27″ W)
Elfee NDB
(Lat. 55°17′46″ N, long. 162°47′21″ W)

Within a 4.7-mile radius of the Cold Bay Airport and within 2.6 miles each side of the 338° bearing and the 158° bearing from the Elfee NDB, extending from the 4.7-mile radius to 13 miles north of the airport and within 3 miles each side of the Cold Bay VORTAC 150° radial, extending from the 4.7-mile radius to 17.4 miles south of the airport.

* * * * *

AAL AK E2 Nome, AK [Revised]

Nome Airport. AK
(Lat. 64°30′44″ N, long. 165°26′43″ W)
Nome VORTAC
(Lat. 64°29′06″ N, long. 165°15′11″ W)
Gold NDB/DME
(Lat. 64°30′46″ N, long. 165°25′01″ W)

Within a 3.9-mile radius of the Nome Airport and within 3.4 miles each side of the Nome VORTAC 106° radial, extending from the 3.9-mile radius to 12.1 miles east of the airport, and within 3.4 miles each side of the Nome VORTAC 286° radial extending from the 3.9-mile radius to 6 miles west of the airport, and within 3.5 miles each side of the 195° bearing from the Gold NDB/DME extending from the 3.9 mile radius to 6 miles south of the airport.

* * * * *

AAL AK E2 Tanana, AK [Revised]

Ralph M. Calhoun Memorial Airport, AK
(Lat. 65°10′28″ N, long. 152°06′34″ W)
Bear Creek NDB
(Lat. 65°10′26″ N, long. 152°12′21″ W)
Tanana VOR/DME
(Lat. 65°10′38″ N, long. 152°10′39″ W)

Within a 3.9-mile radius of the Ralph M. Calhoun Memorial Airport and within 2.5 miles south and 3.5 miles north of the 250° bearing from the Bear Creek NDB extending from the NDB to 9.5 miles west of the NDB, and 2.5 miles north of the Tanana VOR/DME 277° radial extending from 3.9-mile radius to 7 miles west of the VOR/DME. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division.

[FR Doc. 96–26473 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–11]

Establishment of Class E Airspace; Wainwright, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Wainwright Airport, AK. The development of a Global Positioning System (GPS) instrument approach procedure to Runway (RWY) 4 and 22 at Wainwright Airport has made this action necessary. The airport status will change from a visual flight rules (VFR) to an instrument flight rules (IFR) airport. This intended effect of this action is to provide adequate controlled airspace for IFR operations at Wainwright Airport, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Wainwright was published in the Federal Register (61 FR 34395). The development of GPS instrument approach procedures to RWY 4 and 22 at Wainwright Airport, AK, has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However the proposal was published with incorrect coordinates which have been corrected to read: Wainwright Airport (lat. 70°38′19″ N, long. 159°59′52″ W). The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as 700/1200 foot transition areas are published in Paragraph 6005 of Federal Aviation Administration Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace located at Wainwright, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures. The airport VFR status will change to IFR.

The Federal Aviation Administration has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, *Airspace Designations and Reporting Points*, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Wainwright, AK [New]

Wainwright Airport, AK
(Lat. 70°38′19″ N, long. 159°59′52″ W)

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Wainwright Airport; and that airspace extending upward from 1,200 feet above the surface within 6 miles south and 4 miles north of the 247° bearing from the Wainwright airport extending from the 8.5-mile radius to 16 miles southwest, and 6 miles north of the 068° bearing extending from the 8.5-mile radius to 16 miles east.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division Alaskan Region.

[FR Doc. 96–26471 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–13]

Revision of Class E Airspace; Homer, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Homer, AK. The FAA has developed a Global Positioning System (GPS) instrument approach procedure to RWY 21 at Homer, AK. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing instrument approach procedures at Homer, AK.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

History

On July 18, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Homer was published in the Federal Register (61 FR 37407). Revision of the Class E airspace is required for the IFR approach and departure procedures using GPS and NDB instrument approach procedures at Homer, Alaska. This action will provide adequate Class E airspace for IFR operations at Homer, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. Thus, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as 700/1200 foot transition areas are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Homer, AK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing instrument landing and departing procedures.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Homer, AK [Revised]

Homer Airport, AK
(Lat. 59°38′42″ N, long. 151°28′42″ W)
Kachemak NDB
(Lat. 59°38′29″ N, long. 151°30′01″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Homer Airport and within 2.5 miles each side of the 220° bearing of the Kachemak NDB extending from the 6.7-mile radius of the airport to 7.7 miles southwest of the airport, and within 2 miles each side of the 070° bearing from the airport extending to 9 miles east of the airport; excluding that airspace north of a line 2.5 miles north and parallel to Runway 3–21.

* * * * *

Issued in Anchorage, AK, on October 4, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26470 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 73

[Airspace Docket No. 96–AAL–20]

RIN: 2120–AA66

Change Using Agency for Restricted Areas 2202 (R–2202), Big Delta, AK; R–2203, Eagle River, AK; R–2205, Yukon, AK; and R–2211, Blair Lakes, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agency for Restricted Areas 2202 (R–2202), Big Delta, AK; R–2203, Eagle River, AK; R–2205, Yukon, AK; and R–2211, Blair Lakes, AK. In addition, this action changes the name of R–2205 from Yukon, AK, to Stuart Creek, AK.

EFFECTIVE DATE: 0901 UTC, December 5, 1996.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, 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

As a result of a recent review of restricted airspace in Alaska, the U.S. military requested that the FAA take action to change the using agencies for restricted areas to reflect the current chain-of-command. Additionally, this action changes the present name of R–2205, Yukon, AK, to Stuart Creek, AK. This change in name is a better reflection of the restricted area's location.

The Amendment

This amendment to Title 14 of the Code of Federal Regulations part 73 (14 CFR part 73) changes the using agency for R–2202, Big Delta, AK; R–2203, Eagle River, AK; R–2205 Yukon, AK; and R–2211, Blair Lakes, AK. Additionally this action changes the present name of R–2205, Yukon, AK, to Stuart Creek, AK. There are no other changes effecting these restricted areas, including no changes to the boundaries, altitudes, times of designation, or activities conducted within the restricted areas.

Since this action simply changes the published using agency of certain restricted areas, and changes the name of R–2205, the FAA finds that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.22 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8D dated July 11, 1996.

Environmental Review

This action is a minor administrative change amending the published using agency of certain restricted areas and changing the name of R–2205. There are no changes to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air)

Adoption of the Amendment

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

PART 73—[AMENDED]

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

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

§ 73.22 [Amended]

2. Section 73.22 is amended as follows:

R–2202A Big Delta, AK [Amended]

By removing the present using agency and substituting the following:

''Using agency. U.S. Army, Commander, Cold Regions Test Activity, Fort Greely, AK.''

R–2202C Big Delta, AK [Amended]

By removing the present using agency and substituting the following:

''Using agency, U.S. Army, Commander, Cold Regions Test Activity, Fort Greely, AK.''

R–2203A Eagle River, AK [Amended]

By removing the present using agency and substituting the following:

''Using agency. U.S. Army, Commander, Fort Richardson, AK.''

R–2203B Eagle River, AK [Amended]

By removing the present using agency and substituting the following:

''Using agency, U.S. Army, Commander, Fort Richardson, AK.''

R–2203C Eagle River, AK [Amended]

By removing the present using agency and substituting the following:

'Using agency, U.S. Army, Commander, Fort Richardson, AK.''

R–2205 Yukon, AK [Amended]

By removing the present name and using agency and substituting the following:

''R–2205 Stuart Creek, AK.''
''Using agency. U.S. Army, Commander, Fort Richardson, AK.''

R–2211 Blair Lakes, AK [Amended]

By removing the present using agency and substituting the following:

''Using agency. U.S. Air Force, 345th Fighting Wing, Eielson AFB, AK.''

Issued in Washington, DC, on October 7, 1996.

Jeff Griffith,

Program Director for Air Traffic Airspace Management.

[FR Doc. 96–26323 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 95F–0201]

Indirect Food Additive: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(trimethyl hexamethylene terephthalamide) as a component of articles intended for food-contact use. This action is in response to a petition filed by Huls Aktiengesellschaft (Huls AG).

DATES: Effective October 16, 1996; written objections and requests for a hearing by November 15, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 18, 1995 (60 FR 43157), FDA announced that a food additive petition (FAP 2B4328) had been filed by Huls Aktiengesellschaft, Marl, Germany (currently c/o Huls America, Inc., Turner Pl., P.O. Box 365, Piscataway, NJ 08855–0365). The petition proposed to amend the food additive regulations in § 177.1500 *Nylon resins* (21 CFR 177.1500) to provide for the safe use of poly(trimethyl hexamethylene terephthalamide) as a component of articles intended for food-contact uses. However, the petition was subsequently amended to restrict the use of the subject additive to repeat-use articles that do not include reusable bottles. Therefore, this final rule will amend the regulations to authorize the use of the additive in repeat-use articles excluding reusable bottles.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive in repeat-use articles (excluding bottles) is safe and that the additive will have the intended technical effect. The agency has also determined, with the petitioner's concurrence, that the additive should be listed by its classification name, Nylon resin PA 6–3–T. Therefore, § 177.1500 will be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before November 15, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.1500 is amended by adding new paragraph (a)(16), in the table in paragraph (b) by adding a new entry ''16.'', and in the first sentence in paragraph (c)(5)(ii) by removing the word ''resin'' the first time it appears and by adding in its place the phrase ''and Nylon PA–6–3–T resins'' to read as follows:

§ 177.1500 Nylon resins.

* * * * *

(a) * * *

(16) Nylon resins PA 6–3–T (CAS Registry No. 26246–77–5) are manufactured by the condensation of 50 mol percent 1,4-benzenedicarboxylic acid, dimethyl ester and 50 mol percent of an equimolar mixture of 2,2,4-trimethyl-1,6-hexanediamine and 2,4,4-trimethyl-1,6-hexanediamine.

(b) * * *

Nylon resins	Specific gravity	Melting point (degrees Fahrenheit)	Solubility in boiling 4.2*N* HCl	Viscosity No. (mL/g)	Maximum extractable fraction in selected solvents (expressed in percent by weight of resin)			
					Water	95 percent ethyl alcohol	Ethyl acetate	Benzene
* *		*	*	*		*		*
16. Nylon resins PA 6–3–T for repeated-use (excluding bottles) in contact with food of type VIA and VIB described in Table 1 of § 176.170(c) of this chapter under conditions of use D through H described in Table 2 of § 176.170(c) of this chapter with a hot-fill temperature limitation of 40 °C.	1.12±0.03	NA	Insoluble after 1 h.	> 110	0.007	0.64	0.003	0

* * * * *

Dated: October 3, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–26516 Filed 10–15–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–5634–9]

OMB Approval Numbers Under the Paperwork Reduction Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for ''National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies: Cryptosporidium, Giardia, Viruses, Disinfection Byproducts, Water Treatment Plant Data and Other Information Requirements''.

EFFECTIVE DATE: This final rule is effective November 15, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas R. Grubbs, (202) 260–7270.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. Today's amendment updates the table to list those information requirements promulgated under the ''National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies: Cryptosporidium, Giardia, Viruses, Disinfection Byproducts, Water Treatment Plant Data and Other Information Requirements'' which appeared in the Federal Register on May 14, 1996 (61 FR 24354). The affected regulations are codified at 40 Code of Federal Regulations (CFR) part 141. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive order 12898 (59 FR 7629, February 16, 1994).

Because EPA is not taking comment on this correction, it is therefore not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 40 CFR Part 9

Reporting and recordkeeping requirements.

Dated: September 26, 1996.

Robert Perciasepe,

Assistant Administrator, Office of Water.

For the reasons set out in the preamble, 40 CFR part 9 is amended as follows:

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding the new entries under the indicated heading to the table under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
National Primary Drinking Water Regulations	
* * * * *	
141.140–141.144	2040–0183
* * * * *	

[FR Doc. 96–26452 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR PART 80

[FRL–5636–2]

Petition by Guam for Exemption From Anti-Dumping and Detergent Additization Requirements for Conventional Gasoline

AGENCY: Environmental Protection Agency.

ACTION: Notice of direct final decision.

SUMMARY: The Environmental Protection Agency (''EPA'' or ''the Agency'') is granting a petition by the Territory of Guam for exemption from the anti-dumping requirements for gasoline sold in the United States after January 1, 1995. This action is being taken because of Guam's unique geographic location and economic factors. EPA is not granting Guam's petition for exemption from the fuel detergent additization requirements that all gasoline sold in the United States after January 1, 1995 contain fuel detergents. If the gasoline anti-dumping exemption were not granted, Guam would be required to import gasoline from a supplier meeting the anti-dumping requirements adding a considerable expense to gasoline purchased by the Guam consumer. Guam is in full attainment with the national ambient air quality standard for ozone. This action is not expected to cause harmful environmental effects to the citizens of Guam.

Today's action is being taken as a direct final decision because EPA believes that this final decision is noncontroversial. The effects of this decision are limited to the Territory of Guam.

DATES: This action will be effective on December 16, 1996 document, unless EPA receives adverse or critical comments by November 15, 1996. If the Agency receives adverse or critical comments, EPA will withdraw this action by publishing a timely notice in the Federal Register. In a separate action published today, EPA is concurrently proposing approval of the

gasoline anti-dumping exemption portion of Guam's petition for reasons discussed in this document. All correspondence should be directed to the addresses shown below.

ADDRESSES: Any persons wishing to submit comments should submit them (in duplicate, if possible) to the two dockets listed below, with a copy forwarded to Marilyn Winstead McCall, U. S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, SW., (Mail Code: 6406J), Washington, DC. 20460.

Materials relevant to this petition are available for inspection in public docket A–95–19 at the Air Docket Office of the EPA, room M–1500, 401 M Street, SW., Washington, DC 20460, (202) 260–7548, between the hours of 8:00 a.m. to 5:30 p.m. Monday through Friday. A duplicate public docket, A–GU–95, has been established at U. S. EPA Region IX, 75 Hawthorne Street, (Mail code: A–2–1), 17th Floor, San Francisco, Ca 94105, (415) 744–1225, and is available between the hours of 8:30 a.m. to noon, and 1 p.m. to 5 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Marilyn Winstead McCall of the Fuels and Energy Division at (202) 233–9029.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulated Entities

Entities potentially affected by this action are those involved with the production, distribution, and sale of conventional gasoline and gasoline detergent additives for gasoline used in Guam. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Detergent manufacturers, detergent transporters, gasoline refiners and importers, gasoline terminals, detergent blenders, gasoline truckers, and gasoline retailers and wholesale purchaser-consumers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this decision. Other types of entities not listed could also be affected. To determine whether your organization is affected by this decision, you should carefully examine the applicability requirements in § 80.90, § 80.125, and § 80.161, Subparts E, F, and G respectively of title 40, of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The Governor of Guam petitioned the Agency on December 30, 1994 seeking exemption from certain federal regulations promulgated under the Clean Air Act (''CAA'' of ''Act''). On December 15, 1993, EPA promulgated regulations on the production and sale of gasoline that is not required to be reformulated, or ''conventional'' gasoline. For conventional gasoline, the gasoline produced by a refiner or importer is required to cause no more motor vehicle emissions than gasoline produced by that refiner or importer in 1990. This is commonly called the ''anti-dumping'' program. On October 14, 1994, and July 5, 1996, EPA promulgated regulations requiring that all gasoline contain a fuel detergent to control deposits. The fuel detergent additization regulations require that all gasoline sold or dispensed in the United States contain additives to prevent accumulation of deposits in vehicle engines or fuel supply systems, and that volumetric additive reconciliation records and product transfer documents be maintained by certain persons who add the required detergent to the gasoline and transfer the product to other persons. Since Guam is in attainment for ozone, it is not required to offer reformulated gasoline. However, providers of gasoline such as those listed in the table above in Guam are required to provide conventional gasoline that meets the anti-dumping provisions and the detergent additization requirements.

B. Statutory Provisions

Section 211(k) of the Clean Air Act (''CAA'' or ''the Act'') requires that gasoline be reformulated to reduce motor vehicle emissions of toxic and tropospheric ozone-forming compounds, and that this reformulated gasoline be sold in the nine largest metropolitan areas with the most severe summertime ozone levels and other ozone nonattainment areas that opt into the program. Section 211(k)(8) prohibits conventional gasoline (gasoline that has not been ''reformulated'') sold in the rest of the country from becoming any more polluting than it was in 1990. This requirement ensures that refiners do not ''dump'' fuel components that are restricted in reformulated gasoline and that cause environmentally harmful emissions from use of conventional gasoline. This requirement is referred to as the ''anti-dumping'' standards for conventional gasoline.[1]

Section 211(l) states that ''no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers in the United States any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply systems.'' The regulations implementing this requirement are commonly referred to as the ''gasoline deposit control'' or ''detergent additization'' regulation. The Territory of Guam is defined as a state in these regulations.[2]

Section 325 of the Act provides that, upon petition by the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Administrator may exempt any person or source in such territory from various requirements of the Act. It states that ''such exemption may be granted if the Administrator finds that compliance with such requirements is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant.''

EPA previously granted Guam an exemption from the sulfur content requirements for motor vehicle diesel fuels as specified in sections 211(i) and (g) of the Act on May 7, 1993. That exemption was effective November 21, 1993. A more in-depth description of Guam's geographical, meteorological and economic characteristics are discussed in the notice of direct final decision granting that petition for exemption (*see* 58 FR 48968, September 21, 1993).

II. Summary of Guam's Petition

On December 30, 1994, the Honorable Joseph F. Ada, Governor of the Territory

[1] 40 CFR Part 80, Subparts E and F.

[2] 40 CFR Part 80, Subparts A and G.

of Guam, petitioned the Agency for an exemption from the requirements of regulations promulgated at 40 CFR 80 that require conventional gasoline meet certain anti-dumping specifications and that this gasoline be subject to the detergent additization requirements of those regulations. Specifically, the petition requests exemption from Subparts E, F, and G of 40 CFR Part 80. Subparts E and F apply to requirements for refiners and importers to prevent conventional gasoline sold in the United States from becoming any more polluting than it was in 1990. Subpart G requires the use of deposit control (detergent) additives in all gasoline used in the United States beginning January 1, 1995.

A. Guam's Geographical Characteristics

Guam is the westernmost U.S. territory. Guam is the southernmost island in the Mariana Archipelago. It is approximately 28 miles long and its width varies from 4 to 8.5 miles for a total land area of approximately 1209 square miles. Agana, the capital city, is approximately 3700 miles west-southwest of Honolulu, 6000 miles southwest of San Francisco, 1500 miles east of Manila, 1550 miles south of Tokyo and 3100 miles north-northeast of Sydney.

The island of Guam is composed of two distinct geologic areas of about equal size. The northern region is a high coralline limestone plateau rising to 850 feet above sea level. The southern region is of volcanic origin and mountainous, with elevations ranging from 700 to 1300 feet. The northern and southern regions are separated by a narrow low lying area.

B. Guam's Meteorological Characteristics

Guam has a tropical climate. According to data compiled by the National Oceanic and Atmospheric Administration, (NOAA) the average rainfall is 98 inches. Daytime temperatures are typically around 85 degrees F and nighttime temperatures range from 65 to 75 degrees F. Relative humidity is typically from 75 to 90%. The island is subject to consistent strong winds. Most of the time, the island is swept by trade winds blowing from the east. Normal wind speeds are highest during the dry season, with sustained wind speeds of 15 to 25 miles per hour. Data collected by NOAA show a mean wind speed of 7.4 miles per hour.

The dominance of the easterly trade winds is interrupted during the rainy season when storm systems from the east bring heavy showers and torrential rain. Typhoons with winds of more than 70 miles an hour pass within 60 miles of Guam once a year on average. ''Super'' typhoons with winds in excess of 150 miles per hour occur roughly every 10 to 12 years.

C. Economic Factors in Guam

Guam has no known oil resources and no operating refinery. All motor vehicle gasoline supplied to the island of Guam is imported. Transportation costs dictate that the markets supplying gasoline to Guam be limited to the Far East. Refineries in Singapore and Australia have historically supplied Guam's gasoline.

Guam is less affluent than any of the 50 states. Its per capita income in 1990 was $9,928 compared to the national average of $14,420.[3] Due to relatively high transportation costs, retail gasoline prices are already significantly higher in Guam than in the continental United States, averaging in 1994 at approximately $1.50 per gallon as opposed to an estimated national average of approximately $1.17[4] per gallon. Information received after the petition was submitted to the Agency indicates that Guam's economic outlook is not improving, as the Navy Repair Facility and the Navy Fleet and Industrial Supply Center are slated to be closed (and the three other Navy facilities will be realigned), which will mean the loss of thousands of jobs.[5]

It is estimated that the total fleet of gasoline-powered cars is between 100,000 to 140,000. Generally, car ownership is estimated at greater than one vehicle per person on Guam. Cars do not wear well in the island's harsh corrosive environment, so the average age of the fleet is lower than in the mainland United States.

III. Clarification of Anti-Dumping and Detergent Additization Requirements

Subpart E—Anti-Dumping Requirements—Section 211(k)(8) requires that average per gallon emissions of VOC, CO, NO_X, and toxics due to conventional gasoline produced by a refiner or importer not increase over 1990 levels, for each refiner or importer. Each of the four pollutants is to be considered separately, except that potential increases in NO_X emissions due to oxygenate use may be offset by equivalent or greater reductions in the other pollutants. Since VOC and CO emission increases are expected to be controlled through other regulatory programs, the anti-dumping provisions are limited to regulating emissions of toxics and NO_X emissions.

Pursuant to Section 211(k)(8) of the Act, EPA adopted the regulations in Subpart E to address motor vehicle emissions of exhaust benzene, total exhaust toxics and NO_X emissions from conventional gasoline use. Under a simple emissions model, applicable from January 1, 1995 to January 1, 1998, a limit is set for sulfur, olefins and T90 as well as exhaust benzene. A more complex emissions model is required beginning January 1, 1998, with limits set on exhaust toxics and NO_X. All the limits are set as annual averages.

Compliance is measured by comparing emissions of a refiner's or importer's conventional gasoline against those of a baseline gasoline—either a baseline based on the quality of a refiner's 1990 gasoline or on a statutory baseline specified by the Clean Air Act. Subparts E and F require a refiner or importer that establishes a baseline to use an independent auditor to verify its baseline parameters. EPA requires each refiner or importer to maintain records and to report to EPA certain information pertaining to production of conventional gasoline by February 1996, and every subsequent year. Guam 's petition states that there is insufficient data available to importers of Guam's gasoline regarding the quality of gasoline produced in 1990 to establish an individual baseline for these importers. Therefore, if this exemption were not granted, importers of gasoline to Guam would be required to measure compliance against the statutory baseline for the regulated conventional gasoline qualities.

Subpart G—Detergent Gasoline—Section 211(1) requires that, beginning January 1, 1995, no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may sell or dispense to persons who sell or dispense to ultimate consumers in the United States any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply systems. EPA promulgated a rule on October 14, 1994, under which all gasoline (reformulated and conventional) sold or transferred to gasoline retail outlets or wholesale purchaser consumer facilities and all gasoline sold or transferred to ultimate consumers must be additized with a fuel detergent additive registered with the EPA, starting January 1, 1995. On July 5, 1996, EPA published a supplemental rule requiring testing and certification of the fuel detergents (61 FR 35310).

Fuel deposits in motor vehicle engines and fuel supply systems and

[3] Guam Department of Commerce.

[4] ''The Oil Daily,'' May 9, 1995.

[5] Letter dated July 21, 1995, from Eric Murdock, Hunton & Williams, Washington, D.C., supporting Guam's petition.

their impacts on vehicle performance have been studied for many years. Fuel injector and intake valve deposits have been shown to have significant adverse effects on drivability, exhaust emissions and, in some cases, on fuel economy. Deposits in fuel injectors may undercut the effectiveness of engines' oxygen sensors in ensuring the best fuel/air ratio to control emissions. Carburetor deposits can cause improper enrichment of the fuel/air mixture, which can result in rough idling, stalling, poor acceleration, reduced fuel economy and higher emissions of hydrocarbons, carbon monoxide, and in some cases nitrogen oxides. The mechanisms by which intake valve deposits increase emissions are less clear. Adsorption and desorption of fuel on the intake valves can lead to improper fuel/air ratios across the cylinders, thereby interfering with the ability of the oxygen sensor to regulate proper mixture composition. Intake valve deposits might also increase emissions by interfering with the proper preparation and delivery of the fuel air mixture resulting in combustion inefficiency.

Under the current additization program, the detergent additive must be registered under 40 CFR Part 79, and must be added in concentration equal to or exceeding the level specified by the additive manufacturer as being effective in preventing deposits. Each facility where detergent additization is performed is required to create and maintain volumetric additive reconciliation (VAR) records to demonstrate that the gasoline has been additized to the proper concentration. Product transfer documentation (PTD) is required whenever title or custody to any gasoline or detergent is transferred, other than when additized gasoline is sold or dispensed at a retail outlet or wholesale purchaser-consumer facility to the consumer. Each gasoline refiner, importer, carrier, distributor, oxygenate blender or detergent blender who owns, leases, operates, controls or supervises the facility (including a truck or individual storage tank) is subject to these requirements.

IV. Rationale for Exemption

A. Rationale for Exemption from Anti-Dumping Requirements

Singapore refineries differ from the configurations of typical mainland U.S. refineries in that they do not have catalytic cracking capacity (that is, the Singapore refineries do not employ fluid catalytic cracking or ''FCC'' units). As a result of these differences in plant configuration, the properties of the gasoline produced by the Singapore refineries would be expected to be quite different in some respects from the properties of gasoline produced by the typical mainland U.S. refinery (i.e., ''baseline'' conventional gasoline). Specifically, gasoline produced at the Singapore refineries would typically have lower concentrations of sulfur and olefins and relatively higher concentrations of benzene and aromatics.

As a result of these differences, the gasoline produced at the Singapore refineries cannot consistently satisfy the anti-dumping requirements when compared to statutory baseline gasoline, particularly for the winter season. This is not the result of any ''dumping'' of components restricted in reformulated gasoline; it is a reflection of differences in the quality of the gasoline produced in Singapore compared to that typically produced in the mainland U.S.

None of the importers has been able to identify any refineries in the Pacific Rim that are producing, or are readily able to produce, gasoline that can consistently satisfy the anti-dumping requirements. As a result, it is likely that the companies would be forced to import gasoline from mainland refineries at substantial cost if this exemption were not granted.

The granting of Guam's petition for exemption could raise the possibility that a given importer's gasoline might, in a given compliance period, produce more motor vehicle emissions than produced by 1990 statutory baseline gasoline.

Guam is in full attainment with both the primary and secondary national ambient air quality standards (NAAQS) for ozone.

Because of Guam's unique geographic remoteness, there is no risk that conventional gasoline imported through Guam would be sold in any area in which anti-dumping restrictions apply.

The three major importers of gasoline to Guam have indicated that the gasoline normally imported from the Singapore refineries (where virtually all gasoline supplied to Guam is produced [6]) is likely to contain benzene and aromatic concentrations that exceed the statutory baseline levels. As previously stated, the anti-dumping requirements could force the importers of gasoline to Guam to obtain product from distant refineries, adding substantially to the transportation costs, and resulting in great increases in the retail price of gasoline in Guam. Information submitted subsequent to the petition states that these costs could run approximately $4,500,000 per year.[7] According to estimations by current importers of gasoline to the island, transporting gasoline from western refineries (those from the mainland or Hawaii, most likely) would add at least 10 cents per gallon to the retail price of gasoline on the island, in addition to other costs associated with the requirements of the anti-dumping and detergent additization regulations.

Approximately 40,000,000 gallons of gasoline are imported annually into Guam. If Guam is not granted an exemption from the anti-dumping requirements, EPA calculates that gasoline, meeting the statutory baseline, could result in VOC control during a compliance period of approximately 14 tons of total toxic emissions in Guam as compared to the fuel quality in Guam in 1994. A simple cost effectiveness analysis indicates that the cost (based on an annual cost, as stated in Guam's petition, of approximately $4,500,000) of reducing the total toxic emissions would be over $300,000 per ton. In EPA's Regulatory Impact Analysis for Reformulated Gasoline,[8] the Agency estimated that reducing total toxic emissions from combustion and use of gasoline under the reformulated gasoline program would cost approximately $55,000 per ton. Therefore, the cost effectiveness of using another gasoline supplier to reduce air toxics emissions in Guam is several times higher than EPA's estimate for nationwide control of toxics in the federal reformulated gasoline program.

Guam also does not have the proper facilities to perform the necessary analyses on conventional gasoline which are required under the anti-dumping rules. If this exemption were not granted, any samples would have to be shipped to laboratories in Japan or Hawaii. This process would entail a significant cost and could precipitate price increases which would eventually be passed on to the Guam consumer.

Guam's petition states that overall compliance with Subparts E, F, and G would require capital expenditures of more than $250,000 of which amount, approximately $22,000 would be required for software modifications for the VAR and PTD requirements. Annual operating expenditures would amount to more than $500,000 which includes approximately $46,000 for VAR and

[6] Letter dated September 28, 1995, from Eric Murdock, Hunton & Williams, Washington, D.C., supporting Guam's petition.

[7] Letter dated September 28, 1995 from Eric Murdock, Hunton & Williams, Washington, D.C., supporting Guam's petition.

[8] See Regulatory Impact Anaylsis for Reformulated Gasoline, EPA Air Dockets A–92–01 and A–92–12, 401 M Street. S.W., Washington, D.C. 20460.

PTD expenses. These additional costs would result in increases in the retail price of gasoline, estimated by the companies to be at least 0.6 to 1.4 cents more per gallon.

Gasoline price increases of the magnitude expected to result from compliance with Subparts E and F would be especially burdensome for the great many citizens of Guam whose incomes are modest. The average income on Guam is at least $4,000 less than on the mainland. If this exemption were not granted, and gasoline would have to be transported from the mainland, the average price of a gallon of gasoline at the retail level could rise approximately 10 to 12 cents or more over the present price of a gallon of gasoline in Guam. This price increase is far more than EPA's estimated additional cost of reformulated gasoline of 3–5 cents.[9]

B. Rationale for Denying Exemption from Fuel Detergent Requirements

Information provided to the Agency subsequent to the petition [10] states that all of the importers that supply Guam's gasoline use detergent additives in all grades of gasoline that they sell in Guam. One importer, the largest marketer of gasoline on the island, began using additives last year for marketing reasons. Another importer has been using detergent additives in its gasoline for several years. An additive called RT2276 (also referred to as MTT242), is used in concentrations equal to or greater than the level specified by the additive manufacturer. Therefore, compliance with Subpart G's additization requirements is clearly feasible in Guam.

Guam's petition states that costs of compliance with the requirements of Subpart G would be over $400,000. These costs were computed for four importers and their marketers. Since the petition was filed, EPA has learned that there are now only three importers in Guam.[11] Therefore, these costs could conceivably be lower.

The petition estimates that the total cost of compliance will add between .6 to 1.4 cents to the cost of a gallon of gasoline. EPA estimated that the average incremental cost to consumers of compliance with the detergent requirements for the mainland United States would be 0.1 cent a gallon,[12] with this cost being partially compensated for by the increased fuel economy and decreased maintenance requirements which improved deposit control is expected to provide. Over 90 percent of the total estimated cost of the program is associated with the price of the additional additive amounts needed to bring all gasoline up to the effective detergency levels which most of U.S. gasoline already contains. EPA disagrees with the cost estimate in the petition. The estimated cost of 0.6 to 1.4 cents per gallon to comply with the gasoline detergent program in Guam might be a reasonable estimate if detergent was not already widely used in Guam gasoline.[13] However, given the common use of gasoline detergents in Guam, EPA believes that the cost to Guam consumers will likely closely parallel that projected for consumers in the mainland U.S.

Transportation costs associated with shipping detergent additive which complies with Federal detergency requirements to Guam are likely to be somewhat higher than that in the mainland U.S. However, EPA believes this differential in cost will have minimal impact due to the small volume of detergent additive estimated to be needed to achieve proper additization (approximately 0.4 to 0.6 gallons of detergent to 1,000 gallons of gasoline). In addition, EPA's estimate of the cost to the consumer of the detergent program assumed the average motorist drives 10,000 to 15,000 miles per year and consumes 400 to 600 gallons of gasoline. Given Guam's small size, the average motorist on Guam would tend to drive less than the average motorist on the mainland which would tend to reduce the cost to a Guam consumer relative to EPA's estimate. All things considered, the cost to the consumer of up to six dollars a year estimated for the U.S. as a whole, holds for Guam as well. EPA believes that this would not be an unreasonable economic burden for the Guam consumer. This is generally consistent with EPA's estimate of the cost of compliance with the detergent requirements for the mainland United States. In addition, suppliers of gasoline to Guam have indicated that the fuel importers intend to continue adding detergent additives to all gasoline sold in Guam. Thus compliance costs associated with the recordkeeping (VAR and PTD) requirements of the detergent rule are the primary additional costs directly attributable to the detergent program's requirements. EPA estimates that compliance with the recordkeeping requirements of Subpart G would add only a small portion—less than 1 cent—to the cost of a gallon of gasoline. EPA believes that this would not be an unreasonable economic burden for the Guam consumer.

Guam's petition states that only in the last few months of 1995 have all the gasoline importers and marketers begun using fuel detergents in all of Guam's gasoline. Therefore start-up costs could be higher in Guam than in other markets on the mainland where detergent additization has been an ongoing process for several years. EPA does not believe that start-up of this program will be significantly more difficult or expensive in Guam compared to the rest of the U.S. Further, once compliance programs are established, the annual cost of compliance will be comparable to that in other areas. In summary, the small added cost to Guam consumers, and the fact that detergents are already added to 100% of the gasoline supplied in Guam, lead EPA to conclude that an exemption from the requirements of Subpart G is not warranted.

VI. Final Action

A. Anti-Dumping Provisions for Conventional Gasoline

EPA has decided to exempt the Territory of Guam from compliance with the anti-dumping standards for conventional gasoline under section 211(k)(8). The Agency believes that compliance with the gasoline anti-dumping requirements is unreasonable given the significantly increased costs to consumers in Guam in achieving compliance. These increased costs are directly attributable to Guam's location and resulting inability of importers to comply with the anti-dumping requirements without significantly greater costs than those expected for importers in the U. S. mainland. Gasoline price increases of the magnitude expected to result from compliance with Subparts E and F could be especially burdensome for the great many citizens of Guam whose incomes are modest and whose economic situation is not expected to change significantly in the near future.

In addition, despite its geographic remoteness from the mainland,

[9] 59 Fed. Reg. 7810, February 16, 1994.

[10] Letters dated September 28, 1995, and October 26, 1995, from Eric Murdock, Hunton & Williams, Washington, D.C. supporting Guam's petition.

[11] Letter dated October 26, 1995, from Eric J. Murdock, Hunton & Williams, Washington, D.C., supporting Guam's petition.

[12] Final Rule on the Certification Standards for Deposit Control Gasoline Additives, July 5, 1996, 61 FR 35309, page 35353.

[13] EPA estimated that the total cost of the amount of additive needed to comply with Federal gasoline detergency requirements would be 0.5 to 1.0 cents per gallon, with much of U. S. gasoline already containing significant amounts of detergent additives. See the Regulatory Impact Analysis and Regulatory Flexibility Analysis for the Interim Detergent Registration Program and Expected Detergent Certification Program, Docket Item V–B–01, EPA Air Docket A–91–77, Washington, D.C.

compliance with the anti-dumping provisions might require that Guam import conventional gasoline from the U. S. mainland, greatly increasing the cost of conventional gasoline. EPA finds that these economic factors are also unique to the Territory of Guam.

This exemption will apply to all persons in Guam subject to the anti-dumping requirements in section 211(k)(8) of the Act, and subparts E and F of 40 CFR Part 80. This exemption is retroactive to January 1, 1995, and applies only to gasoline imported to Guam for use in Guam. EPA reserves the right to review and reopen this exemption in the future if conditions in Guam change to warrant such an action.

B. Fuel Detergent Additization

EPA is denying the petition from the Territory of Guam for an exemption from the fuel detergent additization requirement that, after January 1, 1995, all conventional gasoline contain registered fuel additives that control fuel deposits as established in 40 CFR Part 80, Subpart G. Guam has not demonstrated that unique local factors exist such that compliance with the detergent additization and recordkeeping requirements would be either infeasible or unreasonable.

VII. Public Participation and Effective Date

The Agency is publishing this action as a direct final decision because it views it as noncontroversial and limited to the Territory of Guam. EPA anticipates no adverse or critical comments. Representatives of automobile and petroleum industry associations have indicated that their constituents will not be adversely affected by this direct final decision and therefore the Agency expects no adverse comments from the members of those associations. Similarly, the Agency does not expect adverse comments from the environmental community or state and local governments, since the environmental impact is very minimal.

This action will become effective December 16, 1996. If the Agency receives adverse comments by November 15, 1996, EPA will publish a subsequent Federal Register document withdrawing this decision. In the event that adverse or critical comments are received, EPA is also publishing a Notice of Proposed Decision in a separate action today, which proposes the same action contained in this direct final decision. Any adverse comments received by the date listed above will be addressed in a subsequent final decision. That final decision will be based on the relevant portion of the proposed final decision that is published in the Proposed Rule Section of this Federal Register and that is identical to this direct final decision. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 16, 1996.

This procedure allows the opportunity for public comment and opportunity for oral presentation of data as required under section 307(d) of the Act. This procedure also provides an expedited procedure for final action where a decision is not expected to be controversial and no adverse comment is expected.

VIII. Statutory Authority

Authority for the action described in this notice is in section 325(a)(1) (42 U.S.C. 7625–1(a)(1) of the Clean Air Act as amended.

IX. Administrative Designation and Regulatory Analysis

Under Executive Order (E.O.) 12866, the Agency must judge whether a regulation is ''major'' and thus subject to the requirement to prepare a regulatory impact analysis. The decision announced today alleviates any potential adverse economic impacts in Guam and is not a regulation or rule as defined in E.O. 12866. Therefore, no regulatory impact analysis has been prepared.

X. Impact on Small Entities

This action either eases or leaves unchanged requirements otherwise applicable to affected entities. Thus, EPA has determined that it will not result in a significant adverse impact on a substantial number of small entities.

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

XII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the exemption in this notice does not include a federal mandate that may result in estimated costs of $100 million or more to those entities mentioned above. This federal action approves a request for exemption by petitioners in Guam to reduce the cost of implementing the Clean Air Act. Accordingly, no additional costs to state, local, or tribal govenrments, or to the private sector result from this action.

XIII. Submission to Congress and the General Accounting Office

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 decision 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 decision in today's Federal Register. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

XIV. Electronic Copy of Final Decision

A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919–541–5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

(M) OMS
(K) Rulemaking and Reporting
(3) Fuels
(9) Reformulated Gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's action will be in the form of a ZIP file and can be identified by the following title: GUAM.ZIP. To down load this file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp

Selection or <CR> to exit: D filename.zip.

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>systems Utilities from the top menu, under <A>rchivers/de-archivers. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

Dated: October 8, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–26449 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5470

[WO–330–1030–02–24 1A]

RIN 1004–AC69

Federal Timber Contract Payment Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule removes the regulations on Federal timber contract payment modification. This action is necessary because this subpart is obsolete since timber sales affected by the Federal Timber Contract Payment Modification Act of October 16, 1984 have all been terminated.

EFFECTIVE DATE: This rule will take effect November 15, 1996.

FOR FURTHER INFORMATION CONTACT: Frank Bruno, Regulatory Management Team, Bureau of Land Management, (202) 452–0352.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background and Discussion of Final Rule
III. Procedural Matters

I. Public Comment Procedures

The existing regulation which this rule removes, 43 CFR part 5470, subpart 5475, is obsolete and without purpose. The BLM has determined for good cause that notice and public procedure on this rule are unnecessary and contrary to the public interest, as the regulation that this rule removes contains no current regulatory substance or guidance.

II. Background and Discussion of Final Rule

43 CFR part 5470, subpart 5475 contains about five pages of regulations which do not have any effect. The Federal Timber Contract Payment Modification Act, 16 U.S.C. 618, which these regulations were written to implement, was requested by some in the timber industry to reduce their losses on the purchase of high-priced Federal timber incurred after the market took a significant downturn. The Act authorized purchasers to terminate contracts upon paying or arranging to pay a buy-out charge; whereas prior to this Act purchasers could not cancel a contract due to market conditions. The contracts covered by this Act were bid prior to January 1, 1982, and held as of June 1, 1984. The Act no longer applies to any existing contracts. Accordingly, 43 CFR part 5470, subpart 5475 is obsolete and without any further applicability.

III. Procedural Matters

National Environmental Policy Act

BLM has determined that this final rule makes only technical changes to the Code of Federal Regulations by eliminating provisions that have no impact on the public and no continued legal relevance. Therefore, it 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 I, Item 1.10. In addition, the final rule does not meet any of the 10 criteria for exceptions to categorical exclusion 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 which 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

The 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. The BLM has determined under the RFA that this final 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 final 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.

Unfunded Mandates Reform Act

Pursuant to the requirements of section 205 of the Unfunded Mandates Reform Act of 1995 (UMRA), BLM has selected the most cost-effective and least burdensome alternative that achieves the objectives of the rule. Removal of 43 CFR part 5470, subpart 5475 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 final rule would not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment (FA).

Executive Order 12630

The final 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 final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, BLM has determined that the rule would not cause a taking of private property, or require further discussion of takings implications under this Executive Order.

Author

The principal author of this final rule is Frank Bruno, Regulatory Management Team, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240; Telephone 202/452–0352.

List of Subjects for 43 CFR Part 5470

Forests and forest products, Government contracts, Public lands, Reporting and record-keeping requirements.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, part 5470, Group 5400, subchapter E, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 5470—CONTRACT MODIFICATION—EXTENSION—ASSIGNMENT

1. The authority citation for part 5470 is revised to read as follows:

Authority: 30 U.S.C. 601; 43 U.S.C. 1181e and 1740.

2. Remove subpart 5475.

Dated: October 2, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

[FR Doc. 96–26250 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 295

[Docket No. R–163]

RIN 2133–AB24

Maritime Security Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Interim final rule and request for comments.

SUMMARY: The Maritime Administration (MARAD) is issuing this interim final rule to provide procedures to implement the provisions of the Maritime Security Act of 1996 (the MSA). The MSA establishes a new 10-year Maritime Security Program (MSP), commencing in Fiscal Year (FY) 1996. The MSP supports the operations of U.S.-flag vessels in the foreign commerce of the United States through assistance payments. Participating vessel operators are required to make their ships and other commercial transportation resources available to the Government during times of war or national emergency.

DATES: This interim final rule is effective October 18, 1996. Comments are requested and must be received on or before November 15, 1996.

ADDRESSES: To be considered, comments shall be mailed, delivered in person or telefaxed (in which case an original must subsequently be forwarded) to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. All comments will be made available for inspection during normal business hours at the above address. Commentors wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Raymond R. Barberesi, Director, Office of Sealift Support, Telephone 202–366–2323.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the Merchant Marine Act of 1936, as amended, 46 App. U.S.C. 1171 *et seq.* (Act), authorized the Secretary of Transportation (Secretary) to provide operating-differential subsidy (ODS) to U.S.-flag ship operators for the operation of their vessels in essential services in the foreign commerce of the United States. These long-term ODS payments are generally based on the difference between U.S. operating costs, primarily wages, and those of principal foreign competitors. The ODS program helped to maintain a U.S.-flag merchant fleet to serve both the commercial and national security needs of the United States.

Section 2 of the MSA amends Title VI of the Act. The current ODS program is retained as Subtitle A, and current ODS contracts with U.S.-flag operators will be honored until they expire under their own terms.

The MSA adds a new Subtitle B, authorizing a MSP, which provides assistance for U.S.-flag operators and vessels that meet certain qualifications. It requires the Secretary to encourage the establishment of a fleet of active, militarily useful, privately-owned vessels to meet national defense and other security requirements, while also maintaining an American presence in international commercial shipping. The MSA establishes a new 10-year program which is intended to support the operations of up to 47 U.S.-flag vessels in the foreign commerce of the United States. Payments to the operators start at $2.3 million per ship in FY 1996, and decrease to $2.1 million per ship per year thereafter.

Participating operators are required to make their ships and other commercial resources available upon request by the Secretary of Defense during time of war or national emergency. Unlike the ODS program, the MSP has few restrictions on vessels operating in the U.S. foreign commerce and eligible vessels may be built in foreign shipyards.

This rule adds a new 46 CFR Part 295 to provide the procedures to implement the MSA with respect to the application for, and award of, MSP operating agreements that provide financial assistance to operators of vessels enrolled in the program, subject to acceptance of statutory conditions incorporated therein.

The 10-year program will be administered on the basis of one-year renewable contracts, provided funding is available in subsequent years. Participating operators will be required to operate eligible vessels in the foreign commerce of the United States, and certain domestic areas such as Guam, with a minimum of operating restrictions, for at least 320 days in any fiscal year. Payments will be reduced for each day any vessel carries civilian bulk preference cargoes in excess of 7,500 tons.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review), and Department of Transportation (DOT) Regulatory Policies

This rulemaking is not considered to be an economically significant regulatory action under section 3(f) of E.O. 12866. This interim final rule also is not considered a major rule for purposes of Congressional review under P.L. 104–121. Since the program is designed to support 47 vessels in FY 1997, each receiving up to $2.1 million annually, the Maritime Administrator finds that the program will not have an annual effect on the economy of $100 million or more. However, it is considered to be a significant rule under DOT's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Accordingly, it has been reviewed by the Office of Management and Budget.

The program will be subject to annual appropriations to provide payments to the participants of $2.3 million for each Agreement Vessel for fiscal year 1996 and $2.1 million for each fiscal year thereafter in which the agreement is in effect. These payments are up to 50 percent less, per vessel, than payments made under the existing ODS program. A full regulatory evaluation is not necessary since this rule only

establishes the procedures to implement the Act which imposes conditions for enrollment of vessels in the MSP.

Pursuant to authority granted by section 8 of the Act, MARAD is publishing this rule as an interim final rule ''excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code.'' This will facilitate establishment of the MSP as early as possible. A final rule will be published in the Federal Register after MARAD has had an opportunity to consider all comments on this interim final rule.

Federalism

MARAD has analyzed this rulemaking in accordance with principles and criteria contained in E.O. 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility

Although the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, does not apply to final rules for which a proposed rulemaking was not required, MARAD has evaluated this rule under that Act and certifies that this rule will not have a significant economic impact on a substantial number of small entities. The participants in this program are not small entities.

Environmental Assessment

MARAD has concluded that this interim final rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) because they would not individually or cumulatively have a significant impact on the human environment, as determined by § 4.05 and Appendices 1 and 2 of Maritime Administrative Order MAO–600–1, which contains MARAD Procedures for Considering Environmental Impacts (50 FR 11606, March 22, 1985) implementing NEPA. The interim final rule does not change the environmental effect of the current ODS program, which the MSP supersedes (and which is currently under a categorical exclusion pursuant to MAO–600–1), because the vessels eligible for the MSP (1) will continue to operate under the U.S. flag, and will continue to be governed by U.S.-flag state control while operating in the global commons; (2) are and will continue to be designed, constructed, equipped and operated in accordance with stringent United States Coast Guard and International Maritime Organization standards for maritime safety and marine environmental protection; and (3) when in waters subject to the port-state, will continue to be governed by port-state control. Therefore, this rule does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*), this rulemaking contains new information collection or record keeping requirements, which have been approved by OMB (approval number 2133–0525). These have been approved under emergency approval authority until November 30, 1996. The Maritime Administration has requested that this approval be extended for three years. Any comments concerning the application and other information requirements contained in this rule should be submitted to the above address.

This rule does not impose any unfunded mandates.

List of Subjects in 46 CFR Part 295

Assistance payments, Maritime carriers, Reporting and record keeping requirements.

Accordingly, Part 295 is added to 46 CFR chapter II, subchapter C, to read as follows:

PART 295—MARITIME SECURITY PROGRAM (MSP)

Subpart A—Introduction

Sec.
295.1 Purpose.
295.2 Definitions.
295.3 Waivers.

Subpart B—Establishment of MSP Fleet and Eligibility

295.10 Eligibility requirements.
295.11 Applications.
295.12 Priority for awarding agreements.

Subpart C—Maritime Security Program Operating Agreements

295.20 General conditions.
295.21 MSP assistance conditions.
295.22 Termination of authority.
295.23 Reporting requirements.

Subpart D—Payment and Billing Procedures

295.30 Payment.
295.31 Criteria for payment.

Subpart E—Appeals Procedures

295.40 Administrative determinations.

Authority: 46 App. U.S.C. 1171 *et seq.*, 49 CFR 1.66.

Subpart A—Introduction

§ 295.1 Purpose.

This part prescribes regulations implementing the provisions of Subpart B of Title VI of the Merchant Marine Act, 1936, as amended, governing Maritime Security Program payments for vessels operating in the foreign trade or mixed foreign and domestic commerce of the United States allowed under a registry endorsement issued under 46 U.S.C. 12105.

§ 295.2 Definitions.

For the purposes of this part:

(a) *Act,* means the Merchant Marine Act, 1936, as amended by the Maritime Security Act of 1996 (46 App. U.S.C. 1101 *et seq.*).

(b) *Administrator,* means the Maritime Administrator, Maritime Administration, U.S. Department of Transportation, to whom the authority to administer Title VI of the Act has been delegated, with the exception of entering into, amending and terminating subsidy contracts.

(c) *Agreement Vessel,* means a vessel covered by a MSP Operating Agreement.

(d) *Applicant,* means an applicant for a MSP Operating Agreement.

(e) *Bulk Cargo,* means cargo that is loaded and carried in bulk without mark or count.

(f) *Chapter 121,* means the vessel documentation provisions of chapter 121 of Title 46, United States Code.

(g) *Citizen of the United States,* means an individual or a corporation, partnership or association as determined under section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802).

(h) *Contracting Officer,* means the Associate Administrator for National Security, Maritime Administration.

(i) *Contractor,* means the owner or operator of a vessel that enters into a MSP Operating Agreement for the vessel with the Maritime Administration under 46 CFR 295.20.

(j) *DOD,* means the U.S. Department of Defense.

(k) *Domestic Trade,* means trade between two or more ports and/or points in the United States.

(l) *Eligible Contractor,* means a Contractor, as defined in this section, who has a completed application for participation in the MSP on file with MARAD.

(m) *Eligible Vessel,* means a vessel that meets the requirements of 46 CFR 295.10(b), as added below.

(n) *Emergency Preparedness Program Agreement,* means the agreement, required by section 653 of the Act, between a Contractor and the Secretary of Defense to make certain commercial transportation resources available during time of war or national emergency.

(o) *Enrollment,* means the entry into a MSP Operating Agreement with the

Maritime Administration to operate a vessel(s) in the MSP Fleet in accordance with 46 CFR 295.20.

(p) *Fiscal Year,* means any annual period beginning on October 1 and ending on September 30.

(q) *LASH Vessel,* means a lighter aboard ship vessel.

(r) *Maritime Subsidy Board,* means the Maritime Subsidy Board which is constituted by 46 CFR 1.67 and delegated authority to enter into, amend and terminate contracts.

(s) *Militarily Useful,* means a measure of utility applicable only for deliberate planning. As applied to dry cargo vessels it means dry cargo ships, including integrated tug/barges, with a minimum capacity of 6,000 (DWT) capable of carrying, without significant modification, any of the following cargoes: unit equipment, ammunition, or sustaining supplies.

(t) *MSP Fleet,* means the fleet of vessels operating under MSP Operating Agreements.

(u) *MSP Operating Agreement,* means the MSP Operating Agreement, providing for MSP payments entered into by a Contractor and the Maritime Administration.

(v) *MSP Payments,* means the payments made for the operation of U.S.-flag vessels in the foreign trade or mixed foreign and domestic commerce of the United States allowed under a registry endorsement issued under 46 U.S.C. 12105, to maintain intermodal shipping capability and to meet national defense and security requirements in accordance with the terms and conditions of a MSP Operating Agreement.

(w) *Ocean Common Carrier,* means a carrier that meets the requirements of 46 U.S.C. App. 1702(3)(6).

(x) *ODS,* means Operating-differential Subsidy provided by Subtitle A, Title VI, of the Act.

(y) *Operating Day,* means any day during which a vessel is operated in accordance with the terms and conditions of a MSP Operating Agreement.

(z) *Roll-on/Roll-off Vessel,* means a vessel that has ramps allowing cargo to be loaded and discharged by means of wheeled vehicles so that cranes are not required.

(aa) *Secretary,* means the Secretary of Transportation.

(bb) *United States Documented Vessel,* means a vessel documented under chapter 121 of Title 46, United States Code.

§ 295.3 Waivers.

In special circumstances, and for good cause shown, the procedures prescribed in this part may be waived in writing by the Maritime Administration, by mutual agreement of the Maritime Administration and the Contractor, so long as the procedures adopted are consistent with the Act and with the objectives of these regulations.

Subpart B—Establishment of MSP Fleet and Eligibility

§ 295.10 Eligibility requirements.

(a) *Applicant.* Any person may apply to the Maritime Administration for Enrollment of Eligible Vessels in MSP Operating Agreements for inclusion in the MSP Fleet pursuant to the provisions of Subtitle B, Title VI, of the Act. Applications shall be addressed to the Secretary, Maritime Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) *Eligible Vessel.* A vessel eligible for enrollment in a MSP Operating Agreement shall be self-propelled and meet the following requirements:

(1) *Vessel Type.* (i) *Liner Vessel.* The vessel shall be operated by the Applicant in its capacity as an Ocean Common Carrier.

(ii) *Specialty vessel.* Whether in commercial service, on charter to the DOD, or in other employment, the vessel shall be either:

(A) a Roll-on/Roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units; or

(B) a LASH vessel with a barge capacity of at least 75 barges; or

(iii) *Other vessel.* Any other type of vessel that is determined by the Maritime Administration to be suitable for use by the United States for national defense or military purposes in time of war or national emergency; and

(2) *Vessel Requirements.* (i) *U.S. Documentation.* Except as provided in paragraph (b)(2)(iv) of this section, the vessel is a U.S.-documented vessel; and

(ii) *Age.* Except as provided in paragraph (b)(2)(iii), on the date a MSP Operating Agreement covering the vessel is first entered into is:

(A) a LASH Vessel that is 25 years of age or less; or

(B) any other type of vessel that is 15 years of age or less.

(iii) *Waiver Authority.* In accordance with section 651(b)(2) of the Act, the Maritime Administration is authorized to waive the application of paragraph (2)(ii) of this section if the Maritime Administration, in consultation with the Secretary of Defense, determines that the waiver is in the national interest.

(iv) *Intent to document U.S.* Although the vessel may not be a U.S.-documented vessel, it shall be considered an Eligible Vessel if the vessel meets the criteria for documentation under 46 U.S.C. Chapter 121, the vessel owner has demonstrated an intent to have the vessel documented under 46 U.S.C. Chapter 121 and the vessel will be less than 10 years of age on the date of that documentation; and

(3) *Maritime Administration's determination.* The Maritime Administration determines that the vessel is necessary to maintain a United States presence in international commercial shipping and the Contractor possesses the ability, experience, resources and other qualifications necessary to execute the obligations of the MSP Operating Agreement, or the Maritime Administration, after consultation with the Secretary of Defense, determines that the vessel is militarily useful for meeting the sealift needs of the United States.

§ 295.11 Applications.

(a) *Action by the Maritime Administration.* Not later than 30 days after the enactment of the Maritime Security Act, the Maritime Administration shall accept applications for Enrollment of vessels in the MSP Fleet. Within 90 days after receipt of a completed application, the Maritime Administration shall enter into a MSP Operating Agreement with the applicant or provide in writing the reason for denial of that application.

(b) *Action by the Applicant.* Applicants for MSP Payments shall submit information on the following:

(1) *Intermodal network.* A statement describing its operating and transportation assets, including vessels, container stocks, trucks, railcars, terminal facilities, and systems used to link such assets together;

(2) *Diversity of trading patterns.* A list of countries and trade routes serviced along with the types and volumes of cargo carried;

(3) *Vessel construction date;*

(4) *Vessel type and size;* and

(5) *Military Utility.* An assessment of the value of the vessel to DOD sealift requirements.

(Approved by the Office of Management and Budget under control number 2133–0525)

§ 295.12 Priority for awarding agreements.

Subject to the availability of appropriations, the Maritime Administration shall enter into individual MSP Operating Agreements for Eligible Vessels according to the following priorities:

(a) *First priority requirements.* First priority shall be accorded to any Eligible Vessel meeting the following requirements:

(1) *U.S. citizen ownership.* Vessels owned and operated by persons or related parties who are Citizens of the United States as defined in section 295.2; or

(2) *Other corporations.* Vessels less than 10 years of age and owned and operated by a corporation that is:

(i) eligible to document a vessel under 46 U.S.C. Chapter 121; and

(ii) affiliated with a corporation operating or managing for the Secretary of Defense other vessels documented under 46 U.S.C. Chapter 121, or chartering other vessels to the Secretary of Defense.

(3) *Limitation on number of vessels.* Limitation on the total number of Eligible Vessels awarded under paragraph (a) of this section shall be:

(i) For any U.S. citizen under paragraph (a)(1), the number of vessels may not exceed the sum of:

(A) the number of U.S.-flag documented vessels that the Contractor or a related party operated in the foreign commerce of the United States (including mixed noncontiguous domestic and foreign commerce, but excluding mixed coastwise and foreign commerce) on May 17, 1995; and

(B) the number of U.S.-flag documented vessels the person chartered to the Secretary of Defense on that date; and

(ii) For any corporation under paragraph (a)(2), not more than five Eligible Vessels.

(4) *Related party.* For the purpose of this section a related party with respect to a person shall be treated as the person.

(b) *Second priority requirements.* To the extent that appropriated funds are available after applying the first priority in paragraph (a) of this section, the Maritime Administration shall enter into individual MSP Operating Agreements for Eligible Vessels owned and operated by a person who is:

(1) *U.S. citizen.* A Citizen of the United States, as defined in section 295.2, that has not been awarded a MSP Operating Agreement under the priority in paragraph (a) of this section, or

(2) *Other.* A person (individual or entity) eligible to document a vessel under 46 U.S.C. Chapter 121, and affiliated with a person or corporation operating or managing other U.S.-documented vessels for the Secretary of Defense or chartering other vessels to the Secretary of Defense.

(c) *Third priority.* To the extent that appropriated funds are available after applying the first and second priority, any other Eligible Vessel.

(d) *Number of MSP Operating Agreements Awarded*—(1) *General rule.* If appropriated funds are not sufficient for MSP Operating Agreements within a first, second or third priority set forth herein, the Maritime Administration shall award a number of Operating Agreements to each applicant, so that the number of Operating Agreements awarded within such priority to that applicant bears approximately the same ratio to the total number of Operating Agreements in the priority for which timely applications have been made as the amount of appropriations available for MSP Operating Agreements for Eligible Vessels in the priority bears to the amount of appropriations necessary for MSP Operating Agreements for all Eligible Vessels in the priority.

(2) *Limited term MSP Operating Agreements.* To the extent that funds are available prior to the effective dates of MSP Operating Agreements awarded under section 295.20(b)(2), the Maritime Administration may award limited term MSP Operating Agreements for periods terminating prior to those effective dates under section 295.20(b)(2), in accordance with section 295.12(d).

Subpart C—Maritime Security Program Operating Agreements

§ 295.20 General conditions.

(a) *Approval.* The Maritime Administration may approve applications to enter into a MSP Operating Agreement and make MSP Payments with respect to vessels that are determined to be necessary to maintain a United States presence in international commercial shipping or for those that are deemed, after consultation with the Secretary of Defense, to be militarily useful for meeting the sealift needs of the United States in national emergencies.

(b) *Effective date.* (1) *General Rule.* Unless otherwise provided in the contract, the effective date of a MSP Operating Agreement is the date when executed by the Contractor and the Maritime Administration.

(2) *Exceptions.* In the case of an Eligible Vessel to be included in a MSP Operating Agreement that is subject to an ODS contract under Subtitle A, or on charter to the U.S. Government, other than a charter under the provisions of an Emergency Preparedness Program Agreement provided by Section 653 of the Act, unless an earlier date is requested by the applicant, the effective date for a MSP Operating Agreement shall be:

(i) The expiration or termination date of the ODS contract or Government charter covering the vessel, respectively, or

(ii) Any earlier date on which the vessel is withdrawn from that contract or charter.

(c) *Replacement Vessels.* The Maritime Administration may approve the replacement of an Eligible Vessel in a MSP Operating Agreement provided the replacement vessel is eligible under section 295.10.

(d) *Notice to shipbuilders.* The Contractor agrees that no later than 30 days after soliciting any offer or bid for the construction of any vessel in a foreign shipyard, and before entering into any contract for construction of a vessel in a foreign shipyard, the Contractor shall provide notice of its intent to enter into such a contract (for vessels being considered for U.S.-flag registry) to the Maritime Administration. Within 5 business days of the receipt of such notification, the Maritime Administration shall issue a notice in the Federal Register of the Contractor's intent. The Contractor is prohibited from entering into any such contract until 5 business days after date of publication of such notice.

(e) *Early termination.* A MSP Operating Agreement shall terminate on a date specified by the Contractor if the Contractor notifies the Maritime Administration not later than 60 days before the effective date of the proposed termination, that the Contractor intends to terminate the Agreement. The Contractor shall be bound by the provisions relating to vessel documentation and national security commitments contained in section 652(m) of the Act.

(f) *Termination for lack of funds.* If, by the first day of a fiscal year, insufficient funds have been appropriated under Section 655 of the Act for that fiscal year, the Maritime Administration shall notify the Congress that MSP Operating Agreements for which insufficient funds are available will be terminated on the 60th day of that fiscal year if sufficient funds are not appropriated or otherwise made available by that date. If only partial funding is appropriated by the 60th day of such fiscal year, then MSP Operating Agreements for which funds are not available shall be terminated using the pro rata distribution method used to award MSP Operating Agreements set forth in section 295.12(d). With respect to each terminated agreement the Contractor shall be released from any further obligation under the agreement, and the Contractor may transfer and register the applicable vessel under a foreign registry deemed acceptable by the Maritime Administration. In the event that no funds are appropriated, then all MSP Operating Agreements

shall be terminated and each Contractor shall be released from its obligations under the agreement. Final payments under the terminated agreements shall be made in accordance with section 295.30. To the extent that funds are appropriated in a subsequent fiscal year, the Maritime Administration shall enter into new MSP Operating Agreements in accordance with the applicable provisions contained in this part.

(g) *Operation under a continuing resolution.* In the event a Continuing Resolution (CR) is in place that does not provide sufficient appropriations to fully meet obligations under MSP Operating Agreements, a Contractor may request termination of the agreement in accordance with paragraph (f), herein, and section 295.30.

(h) *Requisition authority.* To the extent Section 902 of the Act is applicable to any vessel transferred foreign under this section, the vessel shall remain available to be requisitioned by the Maritime Administration under that provision of law.

(i) *Transfer of operating agreements.* A Contractor under a Operating Agreement shall notify the Maritime Administration of its intention to transfer the agreement (including all rights and obligations under the agreement) to any Eligible Contractor or related party. The proposed transfer shall become effective within 90 days unless disapproved by the Maritime Administration.

§ 295.21 MSP assistance conditions.

(a) *Term of MSP Operating Agreement.* The Maritime Administration is authorized to enter into MSP Operating Agreements commencing in FY 1996. MSP Operating Agreements shall be effective for a period of not more than one fiscal year, and unless otherwise specified in the Agreement, shall be renewable, subject to the availability of appropriations or amounts otherwise made available, for each subsequent fiscal year through the end of FY 2005. In the event appropriations are enacted after October 1 with respect to any subsequent fiscal year, October 1 shall be considered the effective date of the renewed agreement, provided sufficient funds are made available and subject to the Contractor's rights for early termination pursuant to section 652(m) of the Act.

(b) *Terms under a continuing resolution (CR).* In the event funds are available under a CR, the terms and conditions of the MSP Operating Agreements shall be in force provided sufficient funds are available to fully meet obligations under MSP Operating Agreements and only for the period stipulated in the applicable CR. If funds are not appropriated at sufficient levels for any portion of a fiscal year, the terms and conditions of any applicable MSP Operating Agreement are void and the Contractor may request termination of the MSP Operating Agreement in accordance with section 295.20(f).

(c) *National security requirements.* Each MSP Operating Agreement shall require the owner or operator of an Eligible Vessel included in that agreement to enter into an Emergency Preparedness Program Agreement pursuant to Section 653 of the Act.

(d) *Vessel operating requirements.* The MSP Operating Agreement shall require that during the period an Eligible Vessel is included in that Agreement, the Eligible Vessel shall:

(1) *Documentation.* Be documented as a U.S.-flag vessel under 46 U.S.C. Chapter 121; and

(2) *Operation.* Be operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105, and shall not otherwise be operated in the coastwise trade of the United States.

(e) *Limitations.* Limitations on Contractors with respect to the operation of foreign-flag vessels shall be in accordance with section 804 of the Act. The operation of vessels, other than Agreement Vessels, in the noncontiguous trades shall be limited in accordance with service levels and conditions permitted in section 656 of the Act.

(f) *Obligation of the U.S. Government.* The amounts payable as MSP Payments under a MSP Operating Agreement shall constitute a contractual obligation of the United States Government to the extent of available appropriations.

§ 295.22 Termination of authority.

(a) *Time frames.* A Contractor that has been awarded a MSP Operating Agreement shall commence operations of the Eligible Vessel, under the applicable agreement or a subsequently renewed agreement, within the time frame specified as follows:

(1) *Existing vessel.* Within one year after the initial effective date of the MSP Operating Agreement in the case of a vessel in existence on that date and after notification to the Maritime Administration within 30 days of the Contractor's intent; or

(2) *Newbuilding.* Within 30 months after the initial effective date of the MSP Operating Agreement in the case of a vessel to be constructed after that date.

(b) *Unused authority.* In the event of a termination of unused authority pursuant to paragraph (a) of this section, such authority shall revert to the Maritime Administration.

§ 295.23 Reporting requirements.

The Contractor shall submit to the Director, Office of Financial Approvals, Maritime Administration, 400 Seventh St., S.W. Washington, D.C. 20590, the following reports, including management footnotes where necessary to make a fair financial presentation:

(a) *Form MA–172.* Not later than 120 days after the close of the Contractor's semiannual accounting period, a Form MA–172 on a semiannual basis, in accordance with 46 CFR 232.6; and

(b) *Financial Statement.* Not later than 120 days after the close of the Contractor's annual accounting period, an audited annual financial statement in accordance with 46 CFR 232.6.

(Approved by the Office of Management and Budget under control number 2133–0525)

Subpart D—Payment and Billing Procedures

§ 295.30 Payment.

(a) *Amount payable.* A MSP Operating Agreement shall provide, subject to the availability of appropriations and to the extent the agreement is in effect, for each Agreement Vessel, an annual payment of $2,300,000 for fiscal year 1996, and $2,100,000 for each fiscal year thereafter. This amount shall be paid in equal monthly installments at the end of each month. The annual amount payable shall not be reduced except as provided in paragraph (b) of this section and section 295.31(a)(3).

(b) *Reductions in amount payable.* (1) The annual amount otherwise payable under a MSP Operating Agreement shall be reduced on a pro rata basis for each day less than 320 in a fiscal year that an Agreement Vessel is not operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105. Days during which the vessel is drydocked or undergoing survey, inspection, or repair shall be considered to be days which the vessel is operated, provided the total of such days within a fiscal year does not exceed 30 days.

(2) There shall be no payment for any day that a MSP Agreement Vessel is engaged in transporting more than 7,500 tons (using the U.S. English standard of short tons, which converts to 6,696.75 long tons, or 6,803.85 metric tons) of civilian bulk preference cargoes

pursuant to section 901(a), 901(b), or 901b, provided that it is Bulk Cargo.

§ 295.31 Criteria for payment.

(a) *Submission of voucher.* For contractors operating under more than one MSP Operating Agreement, the contractor may submit a single monthly voucher applicable to all its agreements. Each voucher submission shall include a certification that the vessel(s) for which payment is requested were operated in accordance with § 295.21(d), and consideration shall be given to reductions in amounts payable as set forth in section 295.30. All submissions shall be forwarded to the Director, Office of Accounting, MAR–330 Room 7325, Maritime Administration, 400 Seventh Street S.W., Washington, D.C. 20590. Payments shall be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901.

(1) Payments shall be made per vessel, in equal monthly installments, as follows:

FY 1996—$191,666.66
FY 1997—$175,000.00
FY 1998—$175,000.00
FY 1999—$175,000.00
FY 2000—$175,000.00
FY 2001—$175,000.00
FY 2002—$175,000.00
FY 2003—$175,000.00
FY 2004—$175,000.00
FY 2005—$175,000.00

(2) To the extent that reductions under § 295.30(b) are known, such reductions shall be applied at the time of the current billing. The daily reduction amounts shall be based on the annual amounts in § 295.30(a) of this part divided by 365 days (366 days in leap years) and rounded to the nearest cent. Daily reduction amounts shall be applied as follows:

FY 1996—$6,284.15
FY 1997—$5,753.42
FY 1998—$5,753.42
FY 1999—$5,753.42
FY 2000—$5,737.70
FY 2001—$5,753.42
FY 2002—$5,753.42
FY 2003—$5,753.42
FY 2004—$5,737.70
FY 2005—$5,753.42

(3) The Maritime Administration may require, for good cause, that a portion not to exceed 10% of the funds payable under this section be withheld until final review of the current billing period is completed.

(4) Amounts owed to MARAD for reductions applicable to a prior billing period shall be electronically transferred using MARAD's prescribed format, or a check may be forwarded to Maritime Administration, P.O. Box 845133, Dallas, Texas 75284–5133, or the amount owed can be credited to MARAD by offsetting amounts payable in future billing periods.

(b) [Reserved]

Subpart E—Appeals Procedures

§ 295.40 Administrative determinations.

(a) *Policy.* A Contractor who disagrees with the findings, interpretations or decisions of the Contracting Officer with respect to the administration of this part may submit an appeal to the Maritime Administrator. Such appeals shall be made in writing to the Maritime Administrator, within 60 days following the date of the document notifying the Contractor of the administrative determination of the Contracting Officer. Such an appeal should be addressed to the Maritime Administrator, Att.: MSP Contract Appeals, Maritime Administration, 400 Seventh St. S.W., Washington, D.C. 20590.

(b) *Process.* The Maritime Administrator may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the Maritime Administrator shall be final.

Dated: October 10, 1996.

By order of the Maritime Administration.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 96–26502 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 960520141–6221–02; I.D. 042696A]

RIN 0648–AH05

Fisheries of the Northeastern United States; Summer Flounder and Scup Fisheries; Amendment 8; Correction

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

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule (I.D. 042696A), which was published Friday, August 23, 1996 (61 FR 43420). The final rule implemented the approved provisions of Amendment 8 to the Fishery Management Plan (FMP) for the Summer Flounder and Scup Fisheries.

EFFECTIVE DATE: September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION:

Background

Amendment 8 revised the summer flounder FMP to include management measures for the scup fishery in order to reduce fishing mortality and to allow the stock to rebuild.

Need for Correction

The final rule that implemented the approved provisions of Amendment 8 to the Fishery Management Plan for the Summer Flounder and Scup Fisheries (61 FR 43420, August 23, 1996) redesignated paragraph (t) of the regulatory text under 50 CFR 648.14 as paragraph (u) and added and reserved a new paragraph (t). Paragraph (t) should not have been redesignated as paragraph (u), because it had already been redesignated in Amendment 7 (61 FR 39909, July 31, 1996), and hence it was also not necessary to add and reserve a new paragraph (t) as a place holder. Therefore, NMFS is correcting amendatory instruction 12 by removing that part of the instruction.

Correction of Publication

Accordingly, the publication on August 23, 1996, of the final rule (I.D. 042696A), which was the subject of FR Doc. 96–21515, is corrected as follows:

On page 43426 of the regulatory text, in the first column, amendatory instruction 12 is corrected as follows:

''12. In § 648.14, paragraphs (a)(80) through (a)(88), and paragraph (u)(6) are added, and paragraphs (k) and (l) are revised to read as follows:''

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

Dated: October 9, 1996.

Rolland A. Schmitten,

Assistant Adminstrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–26391 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 201
Wednesday, October 16, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AB94

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing to lower the rates on assessments paid to the Savings Association Insurance Fund (SAIF), and to widen the spread of the rates, in order to avoid collecting more than needed to maintain the SAIF's capitalization at 1.25 percent of aggregate insured deposits, and improve the effectiveness of the risk-based assessment system.

The proposed rule would establish a base assessment schedule for the SAIF with rates ranging from 4 to 31 basis points, and an adjusted assessment schedule that reduces these rates by 4 basis points. In general, the effective SAIF rates would range from 0 to 27 basis points, beginning October 1, 1996. The proposed rule would also establish a special interim schedule of rates ranging from 18 to 27 basis points for SAIF-member savings associations for just the last quarter of 1996, reflecting the fact that the Financing Corporation's assessments are included in the SAIF rates for these institutions during that interval. Excess assessments collected under the prior assessment schedule would be refunded or credited, with interest.

The proposed rule would enable the FDIC to make limited adjustments to the base assessment rates, both for the SAIF and for the Bank Insurance Fund (BIF), by a limited amount without notice-and-comment rulemaking.

The proposed rule would clarify and correct certain provisions without making substantive changes.

DATES: Comments must be received by the FDIC on or before November 15, 1996.

ADDRESSES: Send comments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to Room F–400, 1776 F Street, NW., Washington, DC, on business days between 8:30 a.m. and 5:00 p.m. (FAX number: 202/898–3838. Internet address: comments@fdic.gov). Comments will be available for inspection in the FDIC Public Information Center, Room 100, 801–17th Street, NW., Washington, DC between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Allan Long, Assistant Director, Division of Finance, (202) 416–6991; James McFadyen, Senior Financial Analyst, (202) 898–7027; Christine Blair, Financial Economist, (202) 898–3936, Division of Research and Statistics; Stephen Ledbetter, Chief, Assessments Evaluation Section, Division of Insurance (202) 898–8658; Richard Osterman, Senior Counsel, (202) 898–3736; Jules Bernard, Counsel, (202) 898–3731, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. The Proposed Rule

A. Background

Under the assessment schedule currently in effect, SAIF members are assessed rates for FDIC insurance ranging from 23 basis points for institutions with the best assessment risk classification to 31 basis points for the riskiest institutions. This assessment schedule implements the risk-based assessment program required by section 7 of the Federal Deposit Insurance (FDI Act), 12 U.S.C. 1817, and has been designed to increase the reserve ratio of the SAIF—the ratio of the SAIF's net worth to aggregate SAIF-insured deposits, *see id.* 1817(*l*)(7)—to the DRR.[1]

Since the creation of the SAIF and through the end of 1992, however, all assessments from SAIF-member institutions were diverted to other needs. While some SAIF-assessment revenue began flowing into the SAIF on January 1, 1993, the amounts authorized to be assessed against SAIF-member savings associations by the SAIF were reduced by the amounts assessed by the FICO in order to service the interest on its bond obligations. At $793 million per year, the FICO draw was substantial, and contributed to the slow growth in the SAIF reserve ratio, which only increased from .28 percent to .47 percent in 1995.

With the capitalization of the BIF in 1995, the Board has lowered the assessment rate schedule for BIF members, creating a significant disparity in the assessment rates paid by BIF and SAIF members. This disparity has created incentives for institutions to move deposits from SAIF-insured status to BIF-insured status, raising the question of whether a shrinking SAIF-assessable deposit base could continue both to service the interest on FICO debt and to capitalize the SAIF.

On September 30, 1996, the Deposit Insurance Funds Act of 1996 (Funds Act), Pub. L. 104–208, 110 Stat. 3009 et seq., was enacted, requiring the FDIC to impose a one-time special assessment on SAIF-assessable deposits to capitalize the SAIF at 1.25 percent of SAIF-insured deposits as of October 1, 1996. The FDIC is issuing a final rule to impose the special assessment; the special assessment is to be collected on November 27, 1996.

The Funds Act also eliminates the statutory link between the FICO's assessments and amounts authorized to be assessed by the SAIF, effective January 1, 1997. Accordingly, the rate-setting process for the SAIF takes the FICO's draw into account until that date, but not afterward.

In response to these developments, the FDIC is proposing to lower the regular SAIF assessment rates as of October 1, 1996, and to refund or credit any excess SAIF assessments collected for the second semiannual period of 1996.

B. Statutory Framework for Setting Assessment Rates

Section 7(b)(1) of the FDI Act, *id.* 1817(b)(1), requires the Board to establish a risk-based assessment system for all insured institutions, and to set semiannual assessments for each institution based on: (1) The probability that the institution will cause a loss to the BIF or to the SAIF, (2) the likely

[1] The DRR is a target ratio that has a fixed value for each year. The value is either 1.25 percent or such higher percentage as the Board determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the Fund. *Id.* 1817(b)(2)(A)(iv). The Board has not altered the statutory DRR for either fund.

amount of the loss, and (3) the revenue needs of the appropriate fund. *Id.* 1817(b)(1)(C).

Section 7(b)(2)(A) requires the Board to set assessments to maintain each fund's reserve ratio at the DRR (or, if the fund's reserve ratio is below the DRR, to increase the ratio to that level). *Id.* 1817(b)(2)(A)(i).[2] The Board must take into consideration the fund's: (1) Expected operating expenses; (2) case resolution expenditures and income; (3) the effect of assessments on members' earnings and capital; and (4) any other factors that the Board deems appropriate. *Id.* 1817(b)(2)(A)(ii). Once the SAIF's reserve ratio is at the DRR, the FDIC may not set SAIF assessments in excess of the amount necessary to maintain that ratio (although the Board may set higher rates for institutions that exhibit weakness or are not well capitalized). *Id.* 1817(b)(2)(A)(iii) & (v).

Until January 1, 1997, the amounts assessed by the FICO may not exceed the amount ''authorized to be assessed'' by the FDIC against SAIF member savings associations pursuant to section 7 of the FDI Act. Conversely, the amount of a SAIF assessment ''shall be reduced'' by the amount of the FICO draw. *Id.* 1441(f)(2).

Finally, until December 31, 1998, the assessment rate for a SAIF member may not be less than the assessment rate for a BIF member that poses a comparable risk to the deposit insurance fund. *Id.* 1817(b)(2)(E).

C. The SAIF Assessment Schedule

1. New Rate Spread

Risk-based assessment rates have a dual purpose: to reflect the risk posed to each Fund by individual institutions, and to provide institutions with proper incentives to control risk-taking. The FDIC has considered whether a spread of 8 basis points is sufficient for achieving these goals. In December 1992, the FDIC proposed to establish risk-based premium matrices of 23 to 31 basis points for both the BIF and the SAIF. The Board asked for comment on whether the proposed assessment rate spread of 8 basis points should be widened. *See* 57 *FR* 62502 (Dec. 31, 1992). Ninety-six commenters addressed this issue; 75 of them favored a wider rate spread. In the final rule, the Board expressed its conviction that widening the rate spread was desirable in principle, but chose to implement the 8-basis point rate spread. The Board expressed concern that widening the spread while keeping assessment revenue constant might unduly burden the weaker institutions that would be subject to greatly increased rates. *See* 58 FR 34357, 34361 (June 25, 1993).

The 8-basis point rate spread has continued to be criticized by bankers, banking scholars and regulators as unduly narrow. There is considerable empirical support for this criticism. Using a variety of methodologies and different sample periods, the vast majority of relevant studies of deposit-insurance pricing have produced results that are consistent with the conclusion that the rate spread between healthy and troubled institutions should exceed 8 basis points. The precise estimates vary; but there is a clear consensus from this evidence that the rate spread should be widened.[3]

There also is a concern that rate differences between adjacent cells in the current matrix do not provide adequate incentives for institutions to improve their condition. Larger differences are consistent with historical variations in failure rates across cells of the matrix, as seen in the following table:

TABLE 1.—HISTORICAL THRIFT FAILURE RATES BY CELL 1988–1993*

Tangible capital category	Supervisory risk subgroup			Not rated as of 12/31/87
	A	B	C	
1. Well:				
Thrifts	1,189	172	21	25
Failures	43	28	9	5
Failure Rate	2.9%	16.3%	42.9%	20.0%
2. Adequate:				
Thrifts	215	73	14	1
Failures	26	20	7	0
Failure Rate	12.1%	27.4%	50.0%	0.0%
3. Under:				
Thrifts	460	389	541	37
Failures	134	205	447	35
Failure Rate	29.1%	52.7%	82.6%	94.6%

Average failure rate: 30.6%

*Percentage of thrifts in cell at year-end 1987 that failed during 1988–1993. These figures reflect different examination policies and procedures than exist today. In particular, examinations may have been relatively infrequent for some institutions during this period.

The precise magnitude of the proper rate differences is open to debate, given the sensitivity of estimates to small changes in assumptions and to the selection of the sample periods. However, the evidence indicates that larger rate differences between adjacent cells of the risk-based assessment matrix are warranted.

Because of concern for the impact of a wider spread on weaker SAIF-insured institutions, the FDIC has performed analyses on increasing the spread from 8 to 27 basis points and has found that, apart from institutions already recognized as likely failures, the wider spread is expected to have a minimal impact in terms of additional failures. The FDIC therefore proposes that a 27-basis point spread be adopted for members of the SAIF.

2. Spreading Risk Over Time

The FDIC has recognized that, in setting deposit insurance premiums, the risk of adverse events that may occur beyond the immediate semiannual assessment period must be considered, in order to spread risk over time and to moderate the cyclical effects of insurance losses on insured institutions. A strict ''pay-as-you-go'' insurance

[2] The Board may set higher rates for institutions that exhibit weakness or are not well capitalized, however. *Id.* 1817(b)(2)(A)(v).

[3] The FDIC's research also suggests that a substantially larger spread would be necessary to establish an ''actuarially fair'' assessment rate system. *See* Gary S. Fissel, ''Risk Measurement, Actuarially Fair Deposit Insurance Premiums and the FDIC's Risk-Related Premium System'', *FDIC Banking Review* 16–27, Table 5, Panel B (1994).

system—one that attempts only to balance revenue and expense over the current assessment period—can result in rate volatility that would adversely impact weak institutions in periods of economic stress, increasing the risk of loss to the fund. Historical evidence shows that in peak loss years, pay-as-you-go rates would substantially exceed the rates required to balance revenues and expenses over the longer term.

The FDIC believes that, for the purpose of estimating future losses for the thrift industry, the industry's loss experience in the 1980s is not likely to be especially informative. The insurance losses associated with thrifts far exceeded insurance losses from banks during this period both in dollars and, to an even greater extent, as a percentage of the size of the industry.

The losses prompted Congress to adopt a number of legislative reforms that have the effect of placing thrifts in a regulatory context that resembles that of the banks much more closely. The FDIC has replaced the Federal Savings and Loan Insurance Corporation (FSLIC) as insurer for the thrift industry. The Office of Thrift Supervision, an office within the Department of the Treasury, has replaced the Federal Home Loan Bank Board as the supervisor for thrift institutions. Thrifts are now subject to stronger capital standards, which are set at the same levels as required of banks. Thrifts, like banks, now pay assessments based on risk. The losses generated in thrift failures are limited by the same safeguards as those that apply to bank failures—notably, the early-closure rule of the prompt corrective action statute, the cross-guarantees among affiliates, the least-cost resolution requirement, and the depositor-preference statute. In view of these changes in the regulatory and insurance environment for thrifts, the failure experience of commercial banks is likely to be more illuminating for the purpose of estimating future thrift losses.

The FDIC has recently analyzed its historical loss experience with banks, and has considered the likely effect of recently enacted statutory provisions that are expected to moderate deposit insurance losses going forward. The FDIC has concluded that an assessment rate of 4 to 5 basis points would be appropriate to achieve a long-run balance between BIF revenues and expenses. See 60 *FR* 42680 (Aug. 16, 1995). These rates reflect the experience of the FDIC during the period from 1950 to 1980. From 1980 through 1994, rates in the range of 10 to 13 basis points would have been required to balance revenues and expenses: but for banks as well as thrifts, failures during this period were attributable to extraordinary conditions brought on by volatile interest rates, ineffective supervision and real-estate values that first soared and then collapsed. While regulators still may not have the ability to foresee a real-estate collapse or other severe economic adversities, the statutory and regulatory safeguards now in place are likely to limit losses to the funds under such extreme conditions. Accordingly, average assessment rates in the range of 4 to 5 basis points are thought to be adequate to balance long-range revenues and expenses for the BIF.

The FDIC expects that this same range is an appropriate benchmark for SAIF rates as well. From 1950 to 1980, the rates paid by FSLIC-insured thrifts were about twice the effective rate paid by FDIC-insured banks, reflecting higher annual rates of deposit growth for thrifts and a somewhat higher loss experience for the FSLIC.[4] But differences between the banking and thrift industries are less significant today than they were in the period from 1950 to 1980; thrifts generally are better protected than they were from the effects of interest-rate swings; regulatory and accounting standards are more exacting; and deposits have generally declined since 1989. The FDIC recognizes that structural weaknesses of the SAIF, including a relatively small membership base and geographic and product concentrations, suggest that the appropriate SAIF assessment rate to achieve a long-range balance may be higher than the BIF rate. Lacking a compelling empirical basis for determining different assessment structures for the two industries, however, the FDIC currently expects that an assessment rate of 4 to 5 basis points would likely result in a long-range balance of revenues and expenses for the SAIF as well as for the BIF.

3. Maintaining the SAIF Reserve Ratio at the DRR

In setting assessments to maintain the reserve ratio at the DRR the Board is required to consider the following factors:

a. Expected operating expenses and revenues. With a balance of approximately $8.6 billion, the SAIF will be fully capitalized at 1.25 percent as of October 1, 1996. Table 2 shows the projected SAIF reserve ratio on June 30, 1997, under pessimistic, optimistic and moderate conditions. The pessimistic conditions combine relatively high loss provisions, high deposit growth and low investment earnings; the optimistic conditions combine zero loss provisions, negative deposit growth and high investment earnings. Table 2 indicates that, under pessimistic conditions, an assessment rate range of 4 to 31 basis points falls just short of maintaining the DRR of 1.25 percent. But under moderate conditions, which can be viewed as more likely than either the pessimistic or optimistic scenarios, rates of 0 to 27 basis points would result in a SAIF reserve ratio of 1.27 percent:

TABLE 2.—SAIF ASSESSMENT RATES AND RESERVE RATIO UNDER VARYING CONDITIONS

Conditions		Pessimistic	Optimistic	Moderate
Deposit growth rate (%)		4.0	−2.0	2.0
Loss provisions ($M)		270	0	50
Investment rate (%)		5.2	6.2	5.7
Assessment rates (bp)		Estimated reserve ratio (%) June 30, 1987		
Range	Average	Pessimistic	Optimistic	Moderate
4 to 31	4.7	1.24	1.36	1.30
2 to 29	2.7	1.23	1.34	1.28

[4] See James R. Barth, John J. Feid, Gabriel Riedel and M. Hampton Tunis, *Alternative Federal Deposit Insurance Schemes,* Office of Policy and Economic Research, Federal Home Loan Bank Board, (January 1989), at 12–20.

Assessment rates (bp)		Estimated reserve ratio (%) June 30, 1987		
Range	Average	Pessimistic	Optimistic	Moderate
0 to 27	0.7	1.21	1.33	1.27

Following is a discussion of each of the main variables affecting the estimated reserve ratio:

Yield on investments: The SAIF is very liquid, not having had any significant receivership activity. Although FDIC policy limits the proportion of investments with maturities beyond five years, a fully capitalized SAIF will have significant investment earnings. Short-term interest rates have been generally stable in 1996, and the FDIC's recent investment yield of 5.7 percent may be a reasonable approximation for the expected yield through the first half of 1997. The investment rates utilized in Table 2 range from 5.2 percent to 6.2 percent, or 50 basis points on either side of the recent experience. Estimated annual operating expenses are assumed to be $40 million, the same as in 1995.[5]

Growth of SAIF-insured deposits: For the 12 months ending December 31, 1995, SAIF-insured deposits increased 2.5 percent, reversing a long-term decline that began with the inception of the SAIF in 1989. But insured deposit growth slowed in the first six months of 1996 to an annual rate of 0.3 percent. The FDIC regards an annual growth rate of 2.5 percent as near the high end of the possible range of deposit growth for the near future. Accordingly, the FDIC's analysis uses a range of insured deposit growth from -2 percent to 4 percent (annualized).

Provisions for loss: The FDIC has already established a reserve for losses within the SAIF, and has accordingly reduced SAIF's reported net worth by the amount of the reserve.[6] This reserve represents the estimated loss for institutions that, absent some favorable event, are likely to fail within 18 months. That projection is subject to considerable uncertainty.

The optimistic scenario assumes the existing reserve is adequate. Table 2 shows an additional loss provision of zero under this scenario.

The pessimistic scenario has an additional loss provision of $270 million. This scenario represents the long-range failure rate for SAIF-insured institutions, which is estimated to be 22 basis points per year of total assets (or slightly more than $2 billion in failed assets per year). The pessimistic scenario is not a worst-case scenario. But given the currently favorable economic conditions and the relative health of the thrift industry, deterioration in the industry would have to be sudden and sharp for the SAIF to require additional loss reserves at the long-term rate.

The moderate scenario reflects the fact that the FDIC has identified a few SAIF members as possible failures by year-end 1997 but has not yet established loss reserves for them. If loss reserves were established for these thrifts in 1996, the cost to the SAIF would be about $50 million.

b. Case resolution expenditures and income. As noted above, the SAIF has no significant receivership activity. Accordingly, case resolution expenditures and income are negligible.

c. Effect on SAIF members' earnings and capital. The proposed rule would reduce assessment rates for all institutions that pay assessments to the SAIF, and therefore would have a beneficial impact on all such institutions' earnings and capital.

Thrifts had record earnings and a return on assets above 1 percent in each of the first two quarters of 1996. Nearly 98 percent of all SAIF members are well capitalized. The assets of ''problem'' SAIF members fell to $7 billion as of June 30, down from over $200 billion at the end of 1991. Only one SAIF member has failed in 1996.

The commercial banking industry, which owns one-fourth of the SAIF assessment base, is even stronger. Based on net income for the first half of 1996, the banking industry is expected to have record annual earnings for the fifth consecutive year.

d. Summary. As discussed above, while the appropriate long-term assessment rate would be 4 to 5 basis points, the analysis summarized in Table 2 indicates that, under current conditions, this rate would likely result in a reserve ratio well in excess of 1.25%. The Board is therefore proposing to lower the rate to a range of 0 to 27 basis points, which would yield an average rate of 0.6 basis points (annualized) and an estimated reserve ratio of 1.27 percent at midyear 1997, under moderate conditions. With no significant receivership activity and a very liquid fund, investment earnings presently are more than adequate to maintain the DRR.

4. The Base Schedule and the Effective Rates

The Funds Act requires the special assessment to be in an amount that capitalizes the SAIF at the DRR as of October 1, 1996. Accordingly, from that date forward the FDIC must set SAIF assessments no higher than necessary to maintain the SAIF's reserve ratio at the DRR (although the Board may set higher rates for institutions that exhibit certain kinds of weakness or are not well capitalized). 12 U.S.C. 1817(b)(2)(A) (i), (iii) and (v). The FDIC must therefore lower the SAIF assessment schedule as a whole.[7]

At the same time, in order to maintain a risk-based assessment system, the FDIC must set rates for riskier institutions at higher levels, even if the resulting collections would cause the SAIF's reserve ratio to rise above the DRR. The higher rates are required to preserve the incentive for those institutions to control risk-taking behavior, and also to cover the long-term costs of the obligations that the institutions present to the SAIF. The FDIC has explicit authority to set higher assessments for such institutions. *See* 12 U.S.C. 1817(b)(2)(A)(v).

The FDIC is proposing to fulfill these requirements by adopting a base assessment schedule that sets forth a permanent (and reduced) set of rates for the SAIF, and an adjusted assessment schedule that further lowers the SAIF rates to the level that is appropriate under current conditions. The FDIC is also proposing to adopt a procedure for making limited modifications to the adjusted assessment schedule in an expeditious manner (discussed in paragraph I.E., below). Finally, in order to accommodate the special circumstances of institutions that pay FICO assessments, the FDIC is

[5] The FDIC presently is addressing the allocation of operating expenses between the BIF and the SAIF. A likely outcome is that the proportion of expenses borne by the SAIF will increase.

[6] The SAIF loss reserve was $114 million on June 30, 1996.

[7] The proposed rule would give the FDIC flexibility to delay issuing the invoices for the first quarterly payment for the first semiannual period of 1997, which is the first payment under the new schedule. As a rule, the FDIC must issue invoices not less than 30 days prior to the collection date. 12 CFR 327.3(c)(1). A shorter interval is warranted in this case in order to afford time for notice and comment on the proposed regulation.

proposing to adopt a special interim set of rates that apply to these institutions from October 1, 1996, through the end of the year. (See discussion at paragraph I.C.4.d., below).

a. The SAIF Base Assessment Schedule. The SAIF rates currently range from 23 basis points for institutions with the most favorable assessment risk classification to 31 basis points for the riskiest institutions:

CURRENT SAIF ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	23	26	29
2	26	29	30
3	29	30	31

See 12 CFR 327.9(d)(1). The proposed rule would retain the basic framework of this schedule and name it the ''SAIF Base Assessment Schedule''.

The proposed SAIF Base Assessment Schedule would have generally lower rates, however, and would also have a wider range between the highest and lowest rates:

PROPOSED SAIF BASE ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	4	7	21
2	7	14	28
3	14	28	31

Until January 1, 1999, SAIF rates may not be lower than the BIF rates for institutions that pose comparable risks to their funds. 12 U.S.C. 1817(b)(2)(E)(iii). Accordingly, the rates in the proposed SAIF Base Assessment Schedule are as low as, but no lower than, the permanent (or base) BIF rates set forth in Rate Schedule 2.[8] *See id.* 327.9(a).

The SAIF Base Assessment Schedule would, in principle, apply immediately to all institutions. As described below, however, the rates set forth in the SAIF Base Assessment Schedule would not be the rates that are actually effective upon adoption of the proposed rule.

b. Effective rates. The FDIC is proposing to modify the rates in the SAIF Base Assessment Schedule in two ways. Both modifications would be effective as of October 1, 1996. The first proposed modification is a general adjustment to the rates in the SAIF Base Assessment Schedule that lowers these rates by 4 basis points. The adjusted rate schedule would immediately apply to all institutions other than those that pay assessments to the FICO. The second proposed modification is a special interim set of rates for institutions that pay assessments to the FICO. The special interim rates would apply to these institutions from October 1, 1996, through December 31, 1996. After the end of 1996, the special interim rates would terminate, and these institutions—like other institutions that pay SAIF assessments—would pay the rates prescribed in the SAIF Base Assessment Schedule as reduced by the 4-basis-point adjustment.

The SAIF Adjusted Assessment Schedule. When the SAIF's reserve ratio is at the DRR, the FDIC cannot lawfully impose regular semiannual assessments with respect to the SAIF in excess of the amount needed to maintain the SAIF at the DRR (although the Board may set such assessments for institutions that exhibit weakness or are not well capitalized). *Id.* 1817(b)(2)(A)(iii) and (v). Accordingly, the FDIC is proposing to adopt an immediate adjustment to the SAIF Base Assessment Schedule that would avoid collecting such excess amounts. Like the SAIF Base Assessment Schedule, the adjusted assessment schedule would take effect on October 1, 1996.

The adjusted assessment schedule would apply at that time to all institutions other than institutions that pay FICO assessments. On and after January 1, 1997, the adjusted assessment schedule would apply to all institutions. The adjustment would reduce each SAIF assessment rate by 4 basis points.

The FDIC may not lower the rates in the SAIF Base Assessment Schedule by more than the proposed 4 basis-point adjustment. Any further reduction would cause the lowest rate to be less than zero, and would also cause the effective SAIF rates to fall below the current rates for BIF members.

Interim schedule for institutions paying FICO assessments. SAIF-member savings associations must pay assessments to the FICO to fund the FICO's interest obligations. 12 U.S.C. 1441(f)(2); *see id.* 1441(k)(1). Through year-end 1996, the FICO's assessments serve to reduce the amounts that the SAIF is authorized to assess against these institutions. Accordingly, in order to maintain a risk-based system of rates for these institutions, the FDIC is setting each rate in the system at a level that is sufficient to pay the FICO's requirements, and also to establish the incentives and generate the revenues necessary to carry out the mission of the risk-based assessment program.

Other institutions—BIF members and SAIF-member banks—do not make such payments to the FICO, even though these institutions may pay SAIF assessments. *See* ''Treatment of Assessments Paid by 'Oakar' Banks and 'Sasser' Banks on SAIF-Insured Deposits, General Counsel's Opinion No. 7'', 60 *FR* 7059 (February 6, 1995).[9] If the FDIC were to extend the special interim rates for SAIF-member savings associations to other institutions, the FDIC would collect amounts in excess of the amount needed to preserve the SAIF's reserve ratio at the DRR. But if the FDIC were to subject SAIF-member savings associations to the schedule that applies to these other institutions, the SAIF would not receive the amounts necessary to compensate it for the risk that the institutions present to it. Accordingly, the FDIC cannot adopt a single rate-schedule for all SAIF-assessable institutions between October 1, 1996, and year-end 1996.

Conversely, the Federal Home Loan Bank Act currently provides—and will continue to provide until January 1, 1997—that the amount assessed by the FICO against SAIF-member savings associations ''shall not exceed the amount authorized to be assessed'' by the SAIF against those institutions, and that the amount of the applicable SAIF assessment ''shall be reduced'' by the amount of the FICO draw. 12 U.S.C. 1441(f)(2)(A). If SAIF-member savings associations were subject to the rate-schedule for other institutions, the amounts collected from the SAIF-member savings associations would not be sufficient to cover the FICO draw.

The FDIC is proposing to set rates for SAIF-member savings associations at a level that is sufficient to cover the FICO draw, yet does not cause these institutions to pay amounts to the SAIF that would cause the SAIF's reserve ratio to exceed the DRR. The rates in the risk-based assessment system for SAIF-member savings associations must also be high enough to carry out the policies that underlie such a system, but not so high as to constitute an excessive burden. The FDIC is therefore proposing

[8] The proposed rule would redesignate Rate Schedule 2 as the BIF Base Assessment Schedule.

[9] A prior version of the Funds Act, which was contained in the ''Balanced Budget Act of 1995'' (H.R. 2491) but vetoed by the President on December 6, 1995, would have required *pro rata* sharing of the FICO payments by savings associations and banks essentially immediately, as that provision would have been effective January 1, 1996. Later on, however, Congress altered the effective date for the FICO sharing provision to apply to semiannual periods beginning after December 31, 1996. By implication, banks do not share in the FICO assessment payments prior to that date.

to retain, as a general matter, the relationships among the assessment-risk categories in the current SAIF assessment schedule, while reducing each rate in the schedule by 5 basis points. The only exception to this principle is found in the relationship between the highest-risk category and adjacent categories. Section 7(b)(2)(E) of the FDI Act specifies that the assessment rate for a SAIF member may not be less than the assessment rate for a BIF member that poses a comparable risk to its fund. *Id.* 1817(b)(2)(E)(iii). Accordingly, the rate proposed for institutions in the highest-risk category schedule is not the current rate reduced by the full 5 basis points, but rather is set at the same level as that for BIF members in the highest-risk category.

Summary. The effective rates applicable to institutions that pay assessments to the SAIF from October 1, 1996, through December 31, 1996, are shown in the following table:

SAIF ADJUSTED ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	0_{18}	3_{21}	17_{24}
2	3_{21}	10_{24}	24_{25}
3	10_{24}	24_{25}	27_{27}

The rates in large type apply to all SAIF-assessable institutions from January 1, 1997, forward; these rates also apply from October 1, 1996, forward to institutions that are not SAIF-member savings associations. The rates in small type apply to SAIF member savings associations from October 1, 1996, through December 31, 1996.

5. Refund of Excess SAIF Assessments

Both the proposed SAIF Adjusted Assessment Schedule and the interim rate schedule for SAIF-member savings associations would become effective as of October 1, 1996. The FDIC has already sent out invoices for the second quarterly payment for the current semiannual period (July-December 1996), however. These assessments were computed at the rates presently in effect, which are generally higher than the proposed rates.

Accordingly, the proposed rule would provide for a refund or credit of the excess amount collected in the regular SAIF assessment, with interest. The excess amount would be refunded or credited in one or more installments. The refunds and credits would be made according to the procedures applicable to regular quarterly payments.

D. Assessments Paid by Certain Institutions

Even if a fund has been capitalized, the FDIC may collect assessments for the fund from institutions ''that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or that are not well capitalized as defined in [FDI Act] section 38''. *Id.* 1817(b)(2)(A)(v). The FDIC proposes to interpret this clause in a manner that is consistent with the existing framework of the risk-based assessment program.

''Financial, operational, or compliance weaknesses''. For assessment purposes, the FDIC classifies each institution into one of three supervisory subgroups:

Subgroup A Financially sound institutions with only a few minor weaknesses. 12 CFR 327.4(a)(2)(i).

Subgroup B Institutions that demonstrate weaknesses which, if not corrected, could result in significant deterioration of the institution and increased loss to the BIF or SAIF. *Id.* 327.4(a)(2)(ii).

Subgroup C Institutions that pose a substantial probability of loss to the BIF or SAIF unless effective corrective action is taken. *Id.* 327.4(a)(2)(iii).

When Congress adopted the Funds Act, Congress was aware that the FDIC already had these standards and definitions in place, and that the FDIC already used them for the purpose of imposing risk-based assessments. Moreover, the standards and definitions focus on institutions'' financial and operational activities, and with their compliance with laws and regulations. The FDIC accordingly believes that it is reasonable and appropriate—and consistent with the intent of Congress—to apply these standards and definitions in determining whether an institution ''exhibit[s] * * * weaknesses ranging from moderately severe to unsatisfactory'' for assessment purposes.

The FDIC considers that if an institution's weaknesses are so severe that ''if not corrected, [they] could result in significant deterioration of the institution and increased loss to the BIF or SAIF'', the weaknesses may properly be characterized as ''moderately severe'. The FDIC further considers that if the weaknesses ''pose a substantial probability of loss to the BIF or SAIF unless effective corrective action is taken', they may properly be regarded as ''unsatisfactory''. The FDIC therefore proposes to interpret section 7(b)(2)(A)(v) to include any institution that is classified in supervisory subgroup B or C.

''Not well capitalized''. Section 7(b)(2)(A)(v) also authorizes the FDIC to set higher rates for institutions ''that are not well capitalized as defined in [FDI Act] section 38''. Section 38 of the FDI Act, 12 U.S.C. 1831o, defines a ''well capitalized'' institution as one that ''significantly exceeds the required minimum level for each relevant capital measure''. 12 U.S.C. 1831o(b)(1)(A).

Section 38 requires each agency to specify the relevant capital measure at which insured depository institution is well capitalized. *Id.* 1831o(c)(2). The FDIC has done so in subpart B of part 325 of its regulations, 12 CFR part 325 (''Capital Maintenance''). *See id.* 325.103(b)(1). But subpart B—and therefore its definition of ''well capitalized''—only applies to state nonmember banks and to insured state branches of foreign banks for which the FDIC is the appropriate federal banking agency. *Id.* 325.101(c).

The FDIC also defines the term ''well capitalized'' in part 327. *See id.* 327.4(a)(1)(i). Here the FDIC does so for the broader purpose of implementing a risk-based assessment system: accordingly, part 327's definition applies to all insured institutions.

While the two definitions employ the same numerical ratios, part 325's definition also includes an extra criterion: an institution may not be ''subject to any written agreement, order, capital directive, or prompt corrective action directive * * * to meet and maintain a specific capital level for any capital measure''. *Id.* 325.103(b)(1)(v). Within the context of the assessment regulation, this kind of consideration helps to determine an institution's supervisory subgroup, but not its capital category. Accordingly, the FDIC considers that it is not appropriate to apply that criterion for the purpose of determining whether an institution is ''well capitalized'' for assessment purposes. The FDIC therefore proposes to apply part 327's current definition of ''well capitalized'' for the purpose of interpreting section 7(b)(2)(A)(v) of the FDI Act.

E. Adjustments to the Assessment Schedule

1. In General

Section 327.9(b) sets forth a procedure under which the Board may increase or decrease the BIF Base Assessment Schedule without engaging in separate notice-and-comment rulemaking proceedings for each adjustment. 12 CFR 327.9(b).

The allowable adjustments are subject to strict limits. No adjustment may, when aggregated with prior adjustments, cause the adjusted BIF rates to deviate ''over time'' by more than 5 basis points from those set forth

in Rate Schedule 2, which is the permanent or base rate schedule for the BIF. An adjustment may not result in a negative assessment rate. No one adjustment may constitute an increase or decrease of more than 5 basis points. *See id.* 327.9(b)(1).

The Board proposes to modify and clarify this process somewhat, and extend it to SAIF rates as well. The proposed regulation would not change the limits on allowable adjustments, but would clarify the following two points.

First, the Board may not, without notice-and-comment rulemaking, establish an adjusted assessment schedule for a fund in which the adjusted rates differ by more than 5 basis points at any time from the base assessment schedule for that fund. For example, if the rate for 1A SAIF members in the SAIF Base Assessment Schedule were 4 basis points, the adjusted rate for 1A SAIF members could never rise above 9 basis points without a new notice-and-comment rulemaking proceeding.

Second, the Board may not reduce the rates in either base assessment schedule any more than those rates have already been lowered, because in that event the lowest rate in the schedule would be less than zero. The proposed regulation makes it clear that zero serves as a lower bound on the most favorable rate, and prevents the other rates from being adjusted by the full 5 basis points.

2. Procedure

The proposed regulation would alter the formal mechanism by which the Board would make an adjustment to the base assessment schedules.

The current regulation calls for the Board to adopt the semiannual assessment schedule and any adjustment thereto by means of a resolution, a procedure that does not require public notice or comment. 12 CFR 327.9(b)(3). Under the proposed rule, the Board would adopt the new assessment schedule pursuant to a rulemaking proceeding, but still without public notice and comment. The Board would present each current assessment schedule in an appendix to part 327.

Consistent with the current rule, the proposed rule would provide that an adjustment to the base assessment schedule could not be applied only to selected risk classifications, but rather would be applied to each cell in the schedule uniformly. The differences between the respective cells in the rate schedule would therefore remain constant. Similarly, adjustments would neither expand nor contract the spread between the lowest- and highest-risk classifications.

The adjustment for any particular semiannual period would be determined by: (1) The amount of assessment income necessary to maintain the SAIF reserve ratio at 1.25 percent (taking into account operating expenses and expected losses and the statutory mandate for the risk-based assessment system); and (2) the particular risk-based assessment schedule that would generate that amount considering the risk composition of the industry at the time. The Board expects to adjust the assessment schedule every six months by the amount (if any), up to and including the maximum adjustment of 5 basis points, necessary to maintain the reserve ratio at the DRR.

Such adjustments would be adopted in a regulation that reflects consideration of the following statutory factors: (1) Expected operating expenses; (2) projected losses; (3) the effect on SAIF members' earnings and capital; and (4) any other factors the Board determined to be relevant. The regulation would be adopted and announced at least 15 days prior to the date the invoice is provided for the first quarter of the semiannual period for which the adjusted rate schedule would take effect.

If the amount of the adjustment under consideration by the FDIC would result in an adjusted schedule exceeding the 5 basis-point maximum, then the Board would initiate a notice-and-comment rulemaking proceeding.

As discussed in more detail in the preamble to the final rule in which the FDIC established the adjustment procedure for BIF rates, the FDIC fully recognizes and understands the concern for the possibility of assessment rate increases without the benefit of full notice-and-comment rulemaking. *See* 60 *FR* 42680, 42739–42740 (Aug. 16, 1995). Nevertheless, for the reasons given below, the FDIC considers that notice and public participation with respect to an adjustment would generally be ''impracticable, unnecessary, or contrary to the public interest'' within the meaning of 5 U.S.C. 553(b). Furthermore, the FDIC considers that for the same reasons it has ''good cause'' within the meaning of *id.* 553(d) to make any such rule effective immediately, and not after a 30-day delay.

Section 7(b)(2)(A)(i) of the FDI Act declares that the FDIC ''shall set rates when necessary, and only to the extent necessary'' to maintain each fund's reserve ratio at the DRR, or to raise a fund's reserve ratio to that level (although the Board may set higher rates for institutions that exhibit weakness or are not well capitalized, *see id.* 1817(b)(2)(A)(v)). Section 7(b)(2)(A)(iii) of the FDI Act restates the substance of this mandate in a different way: the FDIC ''shall not set assessment rates in excess of the amount needed'' for those purposes. These twin commands require the FDIC to monitor the size of each fund, the amount of deposits that each fund insures, and the relationship between them. Section 7(b)(2)(A) requires the FDIC to set ''semiannual assessments''. Accordingly, the FDIC evaluates the assessment schedules every six months.

Notice-and-comment rulemaking procedures are generally ''unnecessary'' because institutions are already on notice with respect to the benchmark rates that are set forth in the base assessment schedules, with respect to the need for making semiannual adjustments to the rates, and with respect to the maximum amount of any such adjustments. Moreover, the adjustments would be limited: the FDIC would not be able to change a current assessment schedule by more than 5 basis points, or to deviate from the base assessment schedule by more than 5 basis points.

Notice-and-comment rulemaking procedures also are generally ''unnecessary'' because they would not generate additional information that is relevant to the rate-setting process. The institutions already provide part of the needed information in their quarterly reports of condition. The remainder of the needed information is data that the FDIC generates internally: *e.g.*, the current balance and expected operating expenses of each fund, and each fund's case resolution expenditures and income.

Finally, notice-and-comment rulemaking procedures are also generally ''impracticable'' and ''contrary to the public interest'' in this context because they are not compatible with the need to make frequent small adjustments to the assessment rates in order to maintain the funds' reserve ratios at the DRR. The FDIC must use data that is as current as possible to generate an assessment schedule that complies with the statutory standards. Notice-and-comment rulemaking procedures entail considerable delay. Such delay could force the FDIC to use out-of-date information to compute the amount of revenue needed and to produce an appropriate assessment schedule. Using out-of-date information could cause the FDIC to set rates for a fund that were higher or lower than necessary to achieve the fund's target DRR.

For these reasons, the FDIC is proposing that any adjustment to the base assessment schedule would be adopted as a final rule without notice and public procedure thereon. Any such final rule would be adopted at least 15 days before the invoice date for the first payment of a semiannual period (and 45 days before the collection date for that payment). The adjusted assessment schedule would be published in the Federal Register as an appendix to subpart A of part 327.

F. Effective Date

The FDIC proposes that the rule, if adopted in final form, would become effective immediately upon adoption. The FDIC considers that an immediate effective date would be both necessary and appropriate because the FDIC must issue invoices reflecting the new lower rates, in order that institutions may know the amounts they are to pay for the first quarter of 1997. By making the rule effective immediately, the FDIC can issue the invoices as promptly as possible.

G. Technical Adjustments

The proposed rule would update, clarify, and correct various references in part 327. For example, § 327.4(a) refers to § 327.9(a) and to § 327.9(c); the proposed rule would replace the references with a single reference to § 327.9. Section 327.4(c) speaks of institutions for which either the FDIC or the Resolution Trust Corporation (RTC) has been appointed conservator; the proposed rule would eliminate the reference to the RTC, and would speak instead of institutions for which the FDIC either has been appointed or serves as conservator. The proposed rule would remove the definitions for ''adjustment factor'' and ''assessment schedule,'' which are found in § 327.8(i), on the ground they are not needed. Finally, the proposed rule would delete certain obsolete provisions relating to the BIF after the BIF achieved its DRR.

H. Capital Calculation for Risk-Based Assessment Purposes

The FDIC recognizes that payment of the special assessment could negatively impact the capital ratings of some institutions, affecting their risk classification under the risk-based assessment system. The risk classification for the first semiannual assessment period of 1997 will be based on an institution's capital as of June 30, 1996, and would be unaffected by payment of the special assessment. But the risk classification for the second semiannual assessment period of 1997 will be based on an institution's capital as of December 30, 1996, and therefore would reflect payment of the special assessment. Given the extraordinary nature of the special assessment, the FDIC is seeking comment on whether, for purposes of assigning an institution's risk classification under the risk-based assessment system for the second semiannual period of calendar year 1997 only, the FDIC should calculate the institution's capital as if the special assessment had not been paid, while taking into account other capital fluctuations.

II. Request for Public Comment

The FDIC is hereby requesting comment on all aspects of the proposed rule. The FDIC is particularly interested in receiving comments on whether it is appropriate to lower SAIF assessment rates from a range of 23 to 31 basis points to a range of 4 to 31 basis points, and then through application of the adjustment factor, to further reduce the SAIF assessment rates to a range of 0 to 27 basis points; whether the proposed spread of 27 basis points from the lowest to the highest assessment rates is appropriate; whether the 5-basis point adjustment factor should be extended to SAIF members; whether it is appropriate to establish an interim schedule for SAIF-member savings associations from October 1, 1996, through December 31, 1996; and whether the proposed rate-spread therein is appropriate. The FDIC also seeks particular comment on its proposed revision to the procedure for adjusting the base assessment schedules of the funds. Finally, the FDIC seeks comment on the propriety and advisability of determining an institution's risk classification under the risk-based assessment system, the second semiannual period of calendar year 1997 only, based on a calculation of the institution's capital as if the special assessment had not been paid, while taking into account other capital fluctuations.

III. Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) are contained in this proposed rule. Consequently, no information has been submitted to the Office of Management and Budget (OMB) for review.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, does not apply to the proposed rule. The RFA's definition of the term ''rule'' excludes ''a rule of particular applicability relating to rates.'' *Id.* 601(2). The FDIC considers that the proposed rule is governed by this exclusion.

In addition, the legislative history of the RFA indicates that its requirements are inappropriate to this proceeding. The RFA focuses on the ''impact'' that a rule will have on small entities. The legislative history shows that the ''impact'' at issue is a differential impact—that is, an impact that places a disproportionate burden on small businesses:

> Uniform regulations applicable to all entities without regard to size or capability of compliance have often had a disproportionate adverse effect on small concerns. The bill, therefore, is designed to encourage agencies to tailor their rules to the size and nature of those to be regulated whenever this is consistent with the underlying statute authorizing the rule.

126 Cong. Rec. 21453 (1980) (''Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299'').

The proposed rule would not impose a uniform cost or requirement on all institutions regardless of size. Rather, it would impose an assessment that is directly proportional to each institution's size. Nor would the proposed rule cause an affected institution to incur any ancillary costs of compliance (such as the need to develop new recordkeeping or reporting systems, to seek out the expertise of specialized accountants, lawyers, or managers) that might cause disproportionate harm to small entities. As a result, the purposes and objectives of the RFA are not affected, and an initial regulatory flexibility analysis is not required.

V. Riegle Community Development and Regulatory Improvement Act

Section 302(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 requires that, as a general rule, new and amended regulations that impose additional reporting, disclosure, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter. *See* 12 U.S.C. 4802(b). This restriction is inapplicable because the final rule would not impose such additional or new requirements.

List of Subjects in 12 CFR Part 327

Assessments, Bank deposit insurance, Banks, banking, Financing Corporation, Savings associations.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 327 of title 12

of the Code of Federal Regulations as follows:

PART 327—ASSESSMENTS

1–2. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1813, 1815, 1817–1819; Deposit Insurance Funds Act of 1996, Pub. L. 104–208, 110 Stat. 3009 *et seq.*

3. Section 327.3 is amended by revising the first sentence of paragraph (c)(1) to read as follows:

§ 327.3 Payment of semiannual assessments.

* * * * *

(c) *First-quarterly payment*—(1) *Invoice.* Unless the Board determines that special and exigent circumstances require a shorter period with respect to the invoice for the first quarterly payment for the first semiannual period of 1997, no later than 30 days prior to the payment date specified in paragraph (c)(2) of this section, the Corporation will provide to each insured depository institution an invoice showing the amount of the assessment payment due from the institution for the first quarter of the upcoming semiannual period, and the computation of that amount. * * *

* * * * *

4. Section 327.4 is amended by revising the first sentence of paragraph (a) introductory text and paragraph (c) to read as follows:

§ 327.4 Annual assessment rate.

(a) *Assessment risk classification.* For the purpose of determining the annual assessment rate for insured depository institutions under § 327.9, each insured depository institution will be assigned an ''assessment risk classification''. * * *

* * * * *

(c) *Classification for certain types of institutions.* The annual assessment rate applicable to institutions that are bridge banks under 12 U.S.C. 1821(n) and to institutions for which the Corporation has been appointed or serves as conservator shall in all cases be the rate applicable to the classification designated as ''2A'' in the appropriate assessment schedule prescribed pursuant to § 327.9.

* * * * *

§ 327.8 [Amended]

5. Section 327.8 is amended by removing paragraph (i).

6. Section 327.9 is revised to read as follows:

§ 327.9 Assessment schedules.

(a) *Base assessment schedules*—(1) *In general.* Subject to § 327.4(c) and subpart B of this part, and except as provided in paragraph (c) of this section, the base annual assessment rate for an insured depository institution shall be the rate prescribed in the appropriate base assessment schedule set forth in paragraph (a)(2) of this section applicable to the assessment risk classification assigned by the Corporation under § 327.4(a) to that institution. Each base assessment schedule utilizes the group and subgroup designations specified in § 327.4(a).

(2) *Assessment schedules*—(i) *BIF members.* The following base assessment schedule applies with respect to assessments paid to the BIF by BIF members and by other institutions that are required to make payments to the BIF pursuant to subpart B of this part:

BIF BASE ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	4	7	21
2	7	14	28
3	14	28	31

(ii) *SAIF members.* Except as provided in paragraph (c) of this section, the following base assessment schedule applies with respect to assessments paid to the SAIF by SAIF members and by other institutions that are required to make payments to the SAIF pursuant to subpart B of this part:

SAIF BASE ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	4	7	21
2	7	14	28
3	14	28	31

(b) *Rate adjustments; procedures*—(1) *Semiannual adjustment.* The Board may increase or decrease the BIF Base Assessment Schedule set forth in paragraph (a)(2)(i) of this section or the SAIF Base Assessment Schedule set forth in paragraph (a)(2)(ii) of this section up to a maximum increase of 5 basis points or a fraction thereof or a maximum decrease of 5 basis points or a fraction thereof (after aggregating increases and decreases), as the Board deems necessary to maintain the reserve ratio of an insurance fund at the designated reserve ratio for that fund. Any such adjustment shall apply uniformly to each rate in the base assessment schedule. In no case may such adjustments result in an assessment rate that is mathematically less than zero or in a rate schedule for an insurance fund that, at any time, is more than 5 basis points above or below the base assessment schedule for that fund, nor may any one such adjustment constitute an increase or decrease of more than 5 basis points. The adjustment for any semiannual period for a fund shall be determined by:

(i) The amount of assessment revenue necessary to maintain the reserve ratio at the designated reserve ratio; and

(ii) The assessment schedule that would generate the amount of revenue in paragraph (b)(1)(i) of this section considering the risk profile of the institutions required to pay assessments to the fund.

(2) *Amount of revenue.* In determining the amount of assessment revenue in paragraph (b)(1)(i) of this section, the Board shall take into consideration the following:

(i) Expected operating expenses of the insurance fund;

(ii) Case resolution expenditures and income of the insurance fund;

(iii) The effect of assessments on the earnings and capital of the institutions paying assessments to the insurance fund; and

(iv) Any other factors the Board may deem appropriate.

(3) *Adjustment procedure.* Any adjustment adopted by the Board pursuant to this paragraph (b) will be adopted by rulemaking. Nevertheless, because the Corporation is required by statute to set assessment rates as necessary (and only to the extent necessary) to maintain or attain the designated reserve ratio, and because the Corporation must do so in the face of constantly changing conditions, and because the purpose of the adjustment procedure is to permit the Corporation to act expeditiously and frequently to maintain or attain the designated reserve ratio in an environment of constant change, but within set parameters not exceeding 5 basis points, without the delays associated with full notice-and-comment rulemaking, the Corporation has determined that it is ordinarily impracticable, unnecessary and not in the public interest to follow the procedure for notice and public comment in such a rulemaking, and that accordingly notice and public procedure thereon are not required as provided in 5 U.S.C. 553(b). For the same reasons, the Corporation has determined that the requirement of a 30-day delayed effective date is not required under 5 U.S.C. 553(d). Any adjustment adopted by the Board pursuant to a rulemaking specified in this paragraph (b) will be reflected in an adjusted assessment

schedule set forth in appendix A to this subpart A.

(4) *Announcement.* The Board shall announce the semiannual assessment schedule and the amount and basis for any adjustment thereto not later than 15 days before the invoice date specified in § 327.3(c) for the first quarter of the semiannual period for which the adjustment shall be effective.

(c) *Special provisions*—(1) *Interim assessment schedule for SAIF-member savings associations.* From October 1, 1996, through December 31, 1996, savings associations that are members of the SAIF shall pay assessments according to the schedule in effect for such institutions on September 30, 1996, except that each rate in the schedule shall be reduced by 5 basis points (0.50 percent). No rate prescribed under this paragraph (c) shall be applied for the purpose of § 327.32(a)(2)(i).

(2) *Refunds or credits of certain assessments.* If the amount paid by an institution for the regular semiannual assessment for the second semiannual period of 1996 exceeds, as a result of the reduction in the rate schedule for a portion of that semiannual period, the amount due from the institution for that semiannual period, the Corporation will refund or credit any such excess payment and will provide interest on the excess payment in accordance with the provisions of § 327.7. Notwithstanding § 327.7(a)(3)(ii), such interest will accrue beginning on the date as of which the reserve ratio of the Savings Association Insurance Fund has reached the designated reserve ratio.

7. A new § 327.10 is added to subpart A to read as follows:

§ 327.10 Interpretive rule: section 7(b)(2)(A)(v).

This interpretive rule explains certain phrases used in section 7(b)(2)(A)(v) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b)(2)(A)(v).

(a) An institution classified in supervisory subgroup B or C pursuant to § 327.4(a)(2) exhibits ''financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory'' within the meaning of such section 7(b)(2)(A)(v).

(b) An institution classified in capital group 2 or 3 pursuant to § 327.4(a)(1) is —not well capitalized— within the meaning of such section 7(b)(2)(A)(v).

8. Subpart A of part 327 is amended by adding appendix A to read as follows:

Appendix A to Subpart A of Part 327—Adjusted Assessment Schedules

(a) *BIF members.* The Board has determined to adjust the BIF Base Assessment Schedule by reducing the rates therein by 4 basis points. The following adjusted assessment schedule applies to BIF members for the second semiannual period of 1996 and for subsequent semiannual periods:

BIF ADJUSTED ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	0	3	17
2	3	10	24
3	10	24	27

(b) *SAIF members.* The Board has determined to adjust the SAIF Base Assessment Schedule by reducing the rates therein by 4 basis points, and has determined to present the adjusted rates in the following schedule. The Board has further determined to present the interim rates prescribed by § 327.9(c) in the same schedule. Accordingly, the following schedule sets forth in large type the adjusted rate schedule that applies to SAIF members generally on and after October 1, 1996, and also sets forth in small type the rates that apply to SAIF members that are savings associations pursuant to § 327.9(c) from October 1, 1996, through December 31, 1996:

SAIF ADJUSTED ASSESSMENT SCHEDULE

Capital group	Supervisory subgroup		
	A	B	C
1	0/18	3/21	17/24
2	3/21	10/24	24/25
3	10/24	24/25	27/27

By order of the Board of Directors.

Dated at Washington, D.C., this 8th day of October 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–26506 Filed 10–11–96; 10:23 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AAL–23]

Proposed Revision of Class E Airspace; Savoonga, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action revises Class E airspace at Savoonga, AK. The development of a Global Positioning System (GPS) instrument approach to RWY 5 has made this action necessary. The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Savoonga, AK.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 96–AAL–23, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AAL–23.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified

closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace for GPS instrument approach procedures for RWY 5 at Savoonga, AK. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Savoonga, AK

Savoonga Airport, AK
(Lat. 63°41′11″ N, long. 170°29′ 33″ W)
Kukuliak VOR/DME
(Lat. 63°41′32″ N, long. 170°28′12″ W)
Gambell NDB/DME
(Lat 63°46′55″ N, long. 171°44′12″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Savoonga Airport and within 3 miles each side of the 059° radial of the Kululiak VOR/DME extending from the 6.4-mile radius to 14.3 miles from the airport; and that airspace extending upward from 1,200 feet above the surface within 15 miles of the airport extending clockwise from the Kukuliak VOR/DME 298° radial to the 023° radial of the VOR/DME, and within 20 miles of the airport extending clockwise from the Kukuliak VOR/DME 023° radial to the 059° radial of the VOR/DME, and 4 miles each side of the 110° bearing from the Gambell NDB/DME extending from the NDB/DME to 12 miles southeast of the Gambell NDB/DME, and 4 miles north and 6 miles south of the 110° bearing from the Gambell NDB/DME extending from the NDB/DME to 12 miles southeast of the Gambell NDB/DME.

* * * * *

Issued in Anchorage, AK, on October 7, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26467 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–24]

Proposed Establishment of Class E Airspace; Klawock, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action establishes Class E airspace at Klawock, AK. The development of Global Positioning System (GPS) and non-directional beacon (NDB) instrument approaches to RWY 1 has made this action necessary. This action will change the airport status from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Klawock, AK.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 96–AAL–24, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in

developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AAL–24.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace for GPS and NDB instrument approach procedures at Klawock, AK. The status of Klawock Airport will change from VFR to IFR. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5—Klawock, AK [New]

Klawock Airport, AK
(Lat. 55°34′45″N, long. 133°04′36″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Klawock Airport; and that airspace extending upward from the 1,200 feet above the surface within 6.5 miles northwest and 8 miles southeast of the 039° bearing from the airport extending from the airport to 6.5 miles northeast of the airport and within 6.5 miles northwest and 8 miles southeast of the 219° bearing from the airport extending from the airport to 25 miles southwest of the airport.

* * * * *

Issued in Anchorage, AK, on October 7, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26466 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–25]

Proposed Establishment of Class E Airspace; Point Lay Long Range Radar Site (LRRS), AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action establishes Class E airspace at Point Lay LRRS, AK. The development of Global Positioning System (GPS) and non-directional beacon (NDB) instrument approaches to RWY 5 has made this action necessary. This action will change the airport status from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Point Lay LRRS, AK.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 96–AAL–25, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AAL–25.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace for GPS and NDB instrument approach procedures at Point Lay LRRS, AK. The status of Point Lay LRRS Airport will change from VFR to IFR. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1995, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1995, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Point Lay LRRS, AK [New]

Point Lay LRRS Airport, AK
(Lat. 69° 43′ 43″ N, long. 163° 01′ 02″ W)
Point Lay NDB
(Lat. 69° 44′ 04″ N, long. 163° 00′ 49″ W)
YAZGA Waypoint
(Lat. 69° 14′ 27″ N, long. 159° 47′ 56″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Point Lay LRRS Airport; and that airspace extending upward from the 1,200 feet above the surface within 5 miles north and 6 miles south of the 248° bearing from the Point Lay NDB extending from the 6.5-mile radius to 17 miles southwest, and 4 miles either side of a line from Point Lay NDB to YAZGA Waypoint.

* * * * *

Issued in Anchorage, AK, on October 7, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26465 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–22]

Proposed Revision of Class E Airspace; Ambler, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action revises Class E airspace at Ambler, AK. The development of a Global Positioning System (GPS) instrument approach to RWY 36 has made this action necessary. The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Ambler, AK.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 96–AAL–22, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AAL–22.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace for GPS instrument approach procedures for RWY 36 at Ambler, AK. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9D, dated September 7, 1995, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 Ambler, AK

Ambler, Airport, AK

(Lat. 67°06′22″ N, long. 157°51′13″ W)
Ambler NDB
(Lat. 67°06′24″ N, long. 157°51′29″ W)
DESOY
(Lat. 66°20′57″ N, long. 158°54′51″ W)
JELLE
(Lat. 66°51′40″ N, long. 158°55′07″ W)
PIKFE
(Lat. 66°56′52″ N, long. 158°01′13″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ambler Airport and within 3.5 miles each side of the 193° bearing of the Ambler NDB extending from the 6.3-mile radius to 7.2 miles southwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4 miles west and 8 miles east of the Ambler NDB 193° bearing extending from the NDB to 16 miles southwest of the NDB, and 4 miles either side of a line from DESOY to PIKFE, and 4 miles either side of a line from JELLE to PIKFE.

* * * * *

Issued in Anchorage, AK, on October 7, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26460 Filed 10–15–96; 8:45 a.m.]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AWP–29]

Proposed Revocation of Class E Airspace; Alameda, CA

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the Class E airspace area at Alameda, CA. The base closure of Alameda Naval Air Station (NAS) has made this action necessary. The intended effect of this action is to revoke controlled airspace since the purpose and requirements for the surface area no longer exist at Alameda NAS (Nimitz Field), CA.

DATES: Comments must be received on or before November 13, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 96–AWP–29, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AWP–29.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revoking the Class E airspace area at Alameda, CA. The base closure of Alameda Naval Air Station (NAS) has made this action necessary. The intended effect of this action is to revoke controlled airspace since the purpose and requirements for the surface area no longer exist at Alameda NAS (Nimitz Field), CA. Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be removed subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 Class E airspace.

* * * * *

AWP CA E2—Alameda NAS, CA [Removed]

* * * * *

Issued in Los Angeles, California, on October 3, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–26459 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AAL–16]

Proposed Revision of Class E Airspace; Dillingham, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action revises the Class E airspace at Dillingham, AK. The development of Microwave Landing System (MLS) and Global Positioning System (GPS) instrument approaches to runway (RWY) 1 and RWY 19 at Dillingham Airport, AK, have made this action necessary. The areas would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Dillingham, AK.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 96–AAL–16, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AAL–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Dillingham, AK. This action is necessary to accommodate a new GPS and MLS instrument approaches at Dillingham, AK. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas for an airport are published in paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996; 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, paragraph 6002 and 6005 are incorporated by reference in 14 CFR 71.1 (61 FR 48403; September 13, 1996). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

* * * * *

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AAL AK E2 Dillingham, AK [Revised]

Dillingham Airport, AK
(Lat. 59°02′40″ N, long. 158°30′20″ W)
Dillingham VOR/DME
(Lat. 58°59′39″ N, long. 158°33′08″ W)

Within a 4.1-mile radius of the Dillingham Airport and within 3.1 miles each side of the Dillingham VOR/DME 207° radial extending from the 4.1-mile radius to 10.4 miles southeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

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

* * * * *

AAL AK E5 Dillingham, AK [Revised]

Dillingham Airport, AK
(Lat. 59°02′40″ N, long. 158°30′20″ W)
Dillingham VOR/DME
(Lat. 58°59′39″ N, long. 158°33′08″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Dillingham Airport and within 3.1 miles each side of the 207° radial of the Dillingham VOR/DME extending from the 6.6-mile radius to 14.1 miles southwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of the VOR/DME.

* * * * *

Issued in Anchorage, AK, on October 8, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26477 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 96–AAL–21]

Proposed Establishment of Class E Airspace; Koyuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action establishes Class E airspace at Koyuk, AK. The development of a non-directional beacon (NDB) instrument approach to RWY 36 has made this action necessary. This action will change the airport status from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). The area would be depicted on aeronautical charts for pilot reference. The intended

effect of this proposal is to provide adequate controlled airspace for IFR operations at Koyuk, AK.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 96–AAL–21, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, System Management Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AAL–21.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace for GPS instrument approach procedures at Koyuk, AK. The status of Koyuk Airport will change from VFR to IFR. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AAL AK E5 Koyuk, AK [New]

Koyuk Airport, AK
(Lat. 64°56′02″ N, long. 161°09′29″ W)
Koyuk NDB, AK
(Lat. 64°55′55″ N, long. 161°08′52″ W)
Norton Bay NDB, AK
(Lat. 64°41′46″ N, long. 162°03′47″ W)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Koyuk Airport and 4 miles west and 8 miles east of the 210° bearing from the Koyuk NDB extending from the 9-mile radius to 17 miles southwest of the airport; and that airspace extending upward from the 1,200 feet above the surface within 5 miles eitherside of the Koyuk NDB 210° bearing extending from the NDB to 30 miles southwest of the NDB and 4.5 miles either side of the line between Norton Bay NDB and Koyuk NDB and within 20 miles of the Koyuk Airport extending clockwise from the 140° bearing to the 210° bearing of the NDB.

* * * * *

Issued in Anchorage, AK, on October 7, 1996.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 96–26472 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

[HO–004–FOR]

Hopi Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Hopi Tribe's abandoned mine land reclamation (AMLR) plan (hereinafter, the ''Hopi plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to plan provisions pertaining to the preface; purpose of the Hopi plan; eligible lands and waters subsequent to certification; land acquisition, management, and disposal; rights of entry; Hopi Department of Natural Resources policy on public participation; organization of the Hopi Tribe; a description of aesthetic, cultural and recreational conditions of the Hopi Reservation; and flora and fauna. The amendment is intended to revise the Hopi plan to meet the requirements of the corresponding Federal regulations and be consistent with SMCRA.

DATES: Written comments must be received by 4:00 p.m., m.d.t., November 15, 1996. If requested, a public hearing on the proposed amendment will be held on November 12, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., October 31, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

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

Guy Padgett, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Norman Honie, Abandoned Mine Land Program Manager, Office of Mining and Minerals, Department of Natural Resources, The Hopi Tribe, P.O. Box 123, Kykotsmovi, Arizona 86039

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (505) 248–5070.

SUPPLEMENTARY INFORMATION:

I. Background on the Hopi Plan

On June 28, 1988, The Secretary of the Interior approved the Hopi plan. General background information on the Hopi plan, including the Secretary's findings and the disposition of comments, can be found in the June 28, 1988, Federal Register (53 FR 24262). Subsequent actions concerning the Hopi Tribe's plan and plan amendments can be found at 30 CFR 756.17 and 756.18.

II. Proposed Amendment

By letter dated September 23, 1996, the Hopi Tribe submitted a proposed amendment to its plan (administrative record No. HO–156) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). The Hopi Tribe submitted the proposed amendment in response to the required plan amendments at 30 CFR 756.18 (a) through (h). The provisions of the Hopi plan that the Hopi Tribe proposes to revise are: preface to amended reclamation plan; section I.A, purpose of the Hopi plan; section II.A(1), coal reclamation after certification and section II.A(1)(i), limited liability; sections II.B(1) (d) and (d)(ii), noncoal reclamation after certification and the construction of public facilities, section II.B(1)(h), limited liability, section II.B(1)(i), contractor responsibility, and section II.B(1)(j), reports; section IV.A(1), land acquisition; section VI.A(1) and B(1), consent to entry and public notice; and part XII, description of aesthetic, cultural and recreational conditions of the Hopi Reservation.

Specifically, the Hopi Tribe proposes in the preface to the amended Hopi plan to include the Energy Policy Act of 1992 (Pub. L. 102–486) as enabling legislation for the Tribe's AMLR program.

The Hopi Tribe is also proposing to delete the existing language that describes the purpose of the Hopi plan at section I.A and replace it with the following:

> [T]he purpose of the Hopi Abandoned Mine Land Reclamation Plan, as amended, is to protect the health, safety, and general welfare of members of the Hopi Tribe and members of the general public from the harmful effects of past coal mining practices and past mineral mining and processing practices.
>
> It also has other purposes. They are: (1) to address adverse effects of mineral mining and processing practices on public facilities; (2) to provide for public facilities in communities impacted by coal or other mineral mining and processing practices; and (3) to address needs for activities or public facilities related to the coal or minerals industry on Hopi Lands impacted by coal or minerals development.
>
> Provision for coal projects are found in Parts IC, IIA, and Parts III through XIV of this Plan. Noncoal projects, including projects related to mineral mining and processing as well as activities and public facilities, are subject to applicable provisions of Parts IIB through XIV of this Plan.

The Hopi Tribe proposes to revise its provisions concerning coal reclamation after certification at section II.A to clarify that the effective date of the Hopi Tribe's certificate of completion of all known abandoned coal mine problems is June 9, 1994. The Tribe also proposes the addition of new language of this section to provide that coal problems found after the effective date of certification would be subject to the provisions specified in the Hopi plan and in sections 401 through 410 of SMCRA.

The Hopi Tribe is proposing to add new language at section II.A(1)(i) to provide for limited liability for coal reclamation after certification such that

> [t]he Tribe shall not be liable under any provision of Federal, State, or Tribal law for any costs or damages as a result of action taken or omitted in the course of carrying out this plan. This section shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the Tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence or intentional misconduct.

The Hopi Tribe is also proposing to revise its provisions concerning noncoal reclamation after certification at sections II.B(1) (d) and (d)(ii) by providing that the projects and construction of ''public'' facilities shall include as priority two the protection of public health, safety, and general welfare from the adverse effects of mining and processing practices, rather than the protection of public health, safety, general welfare and property. In addition, the Hopi Tribe is proposing to add new provisions at sections II.B(1) (h) through (j) to provide for noncoal reclamation the following:

> (h) Limited Liability. The Tribe shall not be liable under any provision of Federal, State, or Tribal law for any costs or damages as a result of action taken or omitted in the course of carrying out this plan. This section shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the Tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence or intentional misconduct.
>
> (i) Contractor Responsibility. To receive AML funds, every successful bidder for a

Tribal AML contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's automated Applicant/Violator System.

(j) Reports. A Form OSM–76, ''Abandoned Mine Land Problem Area Description,'' shall be submitted to OSM upon project completion to report the accomplishments achieved through the project.

Further, the Hopi Tribe is proposing to delete the existing provisions for these topics at sections II.E through G and recodify section II.H as II.E.

The Hopi Tribe proposes to revise its provisions concerning land acquisition at section IV.A(1) to provide that land adversely affected by coal and noncoal mining practices, including refuse piles and all refuse thereon, may be acquired by the Hopi Tribe for the purposes of the reclamation program when the acquisition of the lands meets the requirements of section 407 of SMCRA.

The Hopi Tribe is proposing to revise its rights of entry provisions at section VI.A(1) to provide that entry may be made for the purposes of studies or exploration for the purposes of reclamation and for reclamation work, and at section VI.B(1) to provide that the written notice to be sent to landholders when written consent cannot be obtained will state the intent and reasons for entry and will be consistent with procedures and requirements of the applicable OSM regulations and that such notice will be given 30 days prior to entry.

The Hopi Tribe proposes to delete the original text concerning the description of aesthetic, cultural and recreational conditions of the Hopi Reservation and add new language at part XII to briefly describe the general aesthetic, historic, cultural or recreational values or conditions of the Hopi Reservation.

Finally, the Hopi Tribe is proposing minor editorial and recodification changes.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Hopi plan.

1. Written Comments

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

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t., October 31, 1996. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

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

IV. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

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

5. Regulatory Flexibility Act

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

6. Unfunded Mandates Reform Act

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or private sector.

List of Subjects in 30 CFR Part 756

Abandoned mine reclamation program, Indian lands, Surface mining, Underground mining.

Dated: October 8, 1996.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 96–26510 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–05–M

PANAMA CANAL COMMISSION

35 CFR Parts 133 and 135

RIN 3207–AA38

Tolls for Use of Canal; Rules for Measurement of Vessels

AGENCY: Panama Canal Commission.

ACTION: Proposed rulemaking; extension of comment period.

SUMMARY: The Panama Canal Commission (PCC) is providing a supplemental comment period on the toll rate/measurement rule published in the Federal Register (61 FR 46407) on September 3, 1996. The original comment period closed on September 25, 1996. The provision of this additional period responds to requests from a number of interested parties who indicated there had not been sufficient time to adequately address the various issues raised by the proposal. Additional written comments will be accepted through November 15, 1996.

As in the first comment period, PCC will consider, and strongly encourages all interested parties to present in writing, pertinent data, views or arguments, along with any alternatives or other relevant information, for PCC's consideration prior to issuance of any final rules. Any final rules approved will be effective no earlier than 30 days from the date of their publication in the Federal Register.

DATES: The comment period is extended until November 15, 1996.

ADDRESSES: Comments may be mailed to: John A. Mills, Secretary, Panama Canal Commission, 1825 I Street, NW., Suite 1050, Washington, DC 20006–5402; Telephone: (202) 634–6441, Fax: (202) 634–6439, Internet E-Mail: PanCanalWO@AOL.COM; or the Office of Financial Management, Panama Canal Commission, Balboa Heights, Republic of Panama (Telephone: 011–507–272–3194, Fax: 011–507–272–3040).

FOR FURTHER INFORMATION CONTACT: John A. Mills at the above address, (telephone: (202) 634–6441).

SUPPLEMENTARY INFORMATION: PCC requests that parties desiring to submit new or additional comments advise PCC verbally or in writing of their intention to do so no later than October 24, 1996 so that it may program sufficient time for staff analysis of those comments.

Dated: October 10, 1996.

John A. Mills,

Secretary, Panama Canal Commission.

[FR Doc. 96–26469 Filed 10–15–96; 8:45 am]

BILLING CODE 3640–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 64, 70, and 71

[FRL–5636–8]

Compliance Assurance Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification Not to Extend Comment Period.

SUMMARY: On August 13, 1996, EPA published a notice of availability of a draft regulatory package on the Compliance Assurance Monitoring (CAM) rulemaking. In that notice, EPA stated that it would make required impact analyses available for review and comment no later than August 30, 1996. 61 FR 41991. On September 3, 1996, EPA published a correction notice stating that no required impact analyses would be made public until the CAM rule is promulgated. 61 FR 46418.

EPA has reconsidered the release of regulatory impact analyses and decided to make public for comment the required analyses under the Regulatory Flexibility Act concerning the potential impact on small entities. That analyses should be available by early November 1996 and EPA will at that time make it available and announce through a Federal Register notice a 30-day comment period. During that comment period EPA will accept comments only on the impact of the draft CAM approach on small entities.

The general public comment period on the latest draft of the CAM approach will close on October 15, 1996 as originally specified in the August 13, 1996 notice.

FOR FURTHER INFORMATION CONTACT: Peter Westlin, Office of Air Quality Planning and Standards, (919) 541–1058.

Dated: October 10, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–26454 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 80

[FRL–5636–3]

Petition by Guam for Exemption From Anti-Dumping and Detergent Additization Requirements for Conventional Gasoline

AGENCY: Environmental Protection Agency.

ACTION: Proposed notice of decision.

SUMMARY: The Environmental Protection Agency (''EPA'' or ''the Agency'') is proposing to grant a petition by the Territory of Guam for exemption from the anti-dumping requirements for gasoline sold in the United States after January 1, 1995. This action is proposed because of Guam's unique geographic location and economic factors. EPA is not granting Guam's petition for exemption from the fuel detergent additization requirements that all gasoline sold in the United States after January 1, 1995 contain fuel detergents. If the gasoline anti-dumping exemption were not granted, Guam would be required to import gasoline from a supplier meeting the anti-dumping requirements adding a considerable expense to gasoline purchased by the Guam consumer. Guam is in full attainment with the national ambient air quality standard for ozone. This proposed action is not expected to cause harmful environmental effects to the citizens of Guam.

DATES: Comments on this proposed final decision must be received in writing by November 15, 1996.

ADDRESSES: Materials relevant to this petition are available for inspection in public docket A–95–19 at the Air Docket Office of the EPA, room M–1500, 401 M Street, SW., Washington, DC 20460, (202) 260–7548, between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A duplicate public docket, A–GU–95, has been established at U.S. EPA Region IX, 75 Hawthorne Street (Mail Code: A–2–1), 17th Floor, San Francisco, CA 94105, (415) 744–1225, and is available between the hours of 8:30 a.m. to noon, and 1 p.m. to 5 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

Comments should be submitted (in duplicate if possible) to the two dockets listed above, with a copy forwarded to Marilyn Winstead McCall, U.S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, SW. (Mail Code: 6406J), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Marilyn Winstead McCall at (202) 233–9029.

SUPPLEMENTARY INFORMATION: For more detailed information on this proposal, please see EPA's Notice of Direct Final Decision published in the Final Rules section of this Federal Register which approves Guam's petition for exemption from the gasoline anti-dumping regulations, but does not approve Guam's petition for exemption from the fuel detergent additization regulations. The Agency views this final decision as a noncontroversial action for the reasons discussed in the Notice of Direct Final Decision published in today's Federal Register, and because it believes the effects of this decision are limited to the Territory of Guam. If no adverse or critical comments are received in response to this proposed decision, no further action is contemplated in relation to this decision. If EPA receives adverse or critical comments, EPA will withdraw the Notice of Direct Final Decision by publishing an appropriate notice in the Federal Register, and all public comments received will be addressed in a subsequent notice. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

Dated: October 8, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–26448 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2530

[AA–320–00–4212–02]

RIN 1004–AB10

Indian Allotments

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing this rulemaking to revise the provisions on Indian allotments to reduce the regulatory burden imposed on the public, to streamline and clarify the existing provisions, and to remove redundant and unnecessary requirements. BLM has refined the suitability requirements and the public notification process to make the requirements clearer. We have also clarified the availability of lands within national forest for Indian allotments and the procedures for handling allotments on those lands.

DATES: *Comments:* Commenters must submit comments by November 15, 1996.

ADDRESSES: Commenters may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW., Washington, DC 20240. You may also transmit comments electronically via the Internet to WOComment@WO0033wp.wo.blm.gov. Please include ''attn: AB10'', and your name and address in your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly. Comments will be available for public review in Room 401 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren, (202) 452–7779.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

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 commented is addressing.

BLM may 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:

The Secretary is authorized by section 310 of the Federal Land Policy and Management Act (FLPMA), (43 U.S.C. 1740) to promulgate rules and regulations to carry out the purposes of FLPMA and other laws applicable to the public lands.

Section 4 of the Indian General Allotment Act of February 8, 1887 (25 U.S.C. 334 and 336), (Act) as amended, provides that if you are an Indian eligible for an allotment, you may apply for an allotment to the BLM office having jurisdiction over the lands covered by your application. The Act provides for the following allotment types and maximum allowable acreage:

—Irrigable land-not more than 40 acres,
—Nonirrigable agricultural land-not more than 80 acres, and
—Nonirrigable grazing land-not more than 160 acres.

Your eligibility depends upon your being able to furnish documentation from the Bureau of Indian Affairs (BIA) that show you are an Indian who meets the requirements for filing under this Act. If you are eligible, your minor children are also qualified to file for an allotment under the Act.

III. Discussion of Proposed Rule

This proposed rule, which would revise 43 CFR Part 2530—Indian Allotments, identifies the qualification requirements as well as the steps a person must take to file an application for an Indian allotment on BLM administered public lands and public lands on national forests and the requirements for a trust patent. This revision is needed because the existing regulations have become outdated since being modified in 1972. Specifically, National Environmental Policy Act (NEPA) requirements as well as applicable FLPMA requirements and provisions of laws relating to hazardous substances need to be added. FLPMA requirements include meeting planning requirements and meeting the 2-year notification to grazing permittees and lessees. The revision will make the regulations easier to read and understand, thereby making it easier for the affected public to determine the applicability of the regulations. This revision is part of BLM's efforts to simplify and clarify its existing regulations.

BLM is considering requiring a $100 filing fee for requesting an Indian allotment, as authorized by the Act. A fee has not implemented since the enactment of these regulations in the early part of this century. This fee, if authorized would require the applicant to pay a portion of the costs of processing an allotment application and is more consistent with today's costs of doing business.

The proposed revision sets forth application procedures for applying for Indian allotments on the public lands. Public lands, as defined in this rulemaking, would include any lands administered by BLM, or lands within a national forest that are part of the original public domain and are otherwise not available for application under this Act. This definition is being added to clarify the type of lands that

are subject to application for an Indian allotment. The proposed revision would reorganize the regulations, adding a definition section for clarity (43 CFR 2530.5). A section is added that specifies what public lands are available for an Indian allotment (43 CFR 2530.10) and would:

—affirm that approval of an Indian allotment is discretionary with BLM;
—require that BLM ensure that the lands under application are valuable for agriculture or grazing, and suitable physically and economically; and
—provide that lands otherwise appropriated or segregated from surface entry are not available for selection.

Regulations pertaining to protests and appeals of BLM actions taken on your application are currently contained in 43 CFR part 4, subpart E. BLM is in the process of preparing proposed regulations that would locate BLM protest and appeals procedures in 43 CFR part 1840. Should these BLM protest and appeals regulations become final, appropriate changes in the references will be made to 43 CFR part 1840.

Section by Section Analysis

The proposed regulations would renumber current sections of the regulations. BLM would revise § 2530.10 (formerly § 2530.0–8), land subject to allotment, to add provisions to inform you, the applicant, of the need for lands being properly classified for settlement under the Indian General Allotment Act. We would also add provisions requiring you to provide evidence with respect to the lands that they are physically and economically suitable for support of an Indian family and you have sincerely applied for these lands considering all of these factors. This section would also clarify that we can allow allotments on public lands valuable or potentially valuable for leasable minerals.

Section 2530.13 on qualification requirements would substantially streamline current regulatory provisions by substituting a general reference to the requirement that an applicant for an Indian allotment submit documentation from BIA of eligibility to BLM. This documentation would replace the current regulatory requirement that you furnish BLM a certificate of eligibility from the Commissioner of Indian Affairs.

Section 2530.14 would clarify the eligibility requirements of children of living allotment applicants and orphaned children. Additionally, § 2530.14 would provide procedures for applications on behalf of minor children. We have removed the current regulatory provision on Indian wives (§ 2531.1(e)) since § 2530.13, in addressing the general qualification requirements, would be applicable to all applicants, regardless of gender.

The proposed rule would relocate the current provisions on applications for allotments to §§ 2530.15, 2530.16, and 2530.17 and expand them to provide more detailed procedures, including submission of a nonrefundable filing fee. Section 2530.15 would encourage you to consult with BLM before submitting an application, to ensure you can meet all of the requirements with respect to water and land use conflicts, and to familiarize you with the processes and the responsibilities of the various governmental agencies involved. Section 2530.16 would itemize the information you are to provide in your application (a BLM official form is no longer required). This section would also require submission of a nonrefundable filing fee of $100 for each application and a certificate of eligibility from BIA. The filing fee is to provide partial payment for the BLM's acting upon your application. It would provide that your filing of an application does not segregate the land from the operation of the public land laws, and that your application may not be assigned. Section 2530.17 would specify additional requirements you must meet, including compliance with all State and local zoning requirements as well as assurance that you have, either through production or acquisition, a sufficient quantity and quality of water to develop your allotment.

Sections 2530.20, 2530.21 and 2530.22 would address BLM's process of notifying the public of any proposed decision to grant an allotment. We would publish this notice of proposed decision in local newspapers and distribute it to the Governor of the State, local governmental entities, authorized users, and interested parties. BLM would allow the public 45 days from the initial date of publication in the newspaper to comment on the proposed decision. As noted in §§ 2530.23 and 2530.24, BLM would analyze all comments received and would address all protests according to the procedures found in 43 CFR part 4.

Section 2530.26 would provide that if grazing authorizations exist upon the lands you have applied for, BLM may delay approval of your allotment for a period up to two years so that we can give notice to the permittees and lessees. However, a permittee or lessee may waive the two year notification.

Section 2530.27 would require that the lands covered by the allotment be segregated from the public land laws and mining laws to eliminate potential encumbrances or any conflicts with the settlement of the allotment. The lands would be segregated for 2 years beginning on the date your allotment is approved, and BLM may extend the segregation in specific circumstances.

Requirements for filing an application for a trust patent would be addressed in revised 43 CFR part 2530, subpart 2531, which would deal exclusively with trust patents. Section 2531.1 would direct BLM to issue you a trust patent after you successfully complete the required 2-year settlement period on your allotment and your meeting all other requirements. If you are unable to complete the 2-year settlement period due to circumstances such as war, acts of God, or legal delays, § 2531.2 would provide that BLM may grant you an extension of not more than 2 additional years. If a grazing lessee or licensee requests the delay your application will be suspended for the amount of time of the delay request.

Sections 2531.5 and 2531.6 would address the disposition of the allotment of an Indian who dies after settlement but before we issue a trust patent. If an allottee dies after complying with the requirements to obtain title, but prior to our issuing a trust patent, we will issue a trust patent to the heirs of the deceased allottee, without requiring any further occupancy.

43 CFR part 2530, subpart 2533, which currently addresses Indian allotments in national forests, would be replaced by 43 CFR part 2530, subpart § 2532. A new § 2532.3 would state the qualifications that you must meet for approval of an application for an Indian allotment on national forests. You may file an application for an allotment for lands on national forests if you: (1) are not entitled to an allotment on an existing reservation, (2) belong to a tribe without a reservation, or (3) belong to a reservation that is insufficient in size to accommodate allotments for the members of the tribe.

Section 2532.4, a proposed revision of existing § 2531.1, would provide that your application be submitted to the District Ranger or the Forest Supervisor in the same format as required for applications for allotments on public lands administered by BLM. Likewise, the Forest Service would require a nonrefundable filing fee of $100.

Section 2532.5 would provide that the Forest Service is to process applications in accordance with Forest Service regulations, and would set forth the procedures for rejecting and accepting

applications for allotments on national forests. The Secretary of the Interior would retain final responsibility for accepting or rejecting applications and the Secretary would issue trust patents on national forest lands in the same manner as trust patents for BLM lands. Section 2532.6 would provide you the right to appeal to the Interior Board of Land Appeals if BLM rejects your application on the basis that the lands you applied for are not suitable for disposal under the Act.

IV. Procedural Matters

The principal author of this proposed rulemaking is Jeff Holdren, Realty Use Group, assisted by the staff of the Regulatory Management Team of the Bureau of Land Management.

National Environmental Policy Act

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). 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 (see ''ADDRESSES''). BLM invites the public to review these documents 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

BLM has determined that fewer than 5 Indian allotment applications per year are filed. Therefore, the information collection requirements contained in the proposed regulation are exempt from the provisions of the Paperwork Reduction Act (44 U.S.C. 3518(c)(1)).

Regulatory Flexibility Act

Congress enacted The Regulatory Flexibility Act of 1980 (RFA) 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 that this proposed rule would not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

BLM has determined that this proposed rule is not significant under the Unfunded Mandates Reform Act of 1995, because it will not result in State, local and tribal government, in the aggregate, or private sector, expenditure of $100 million or more in any one year. This proposed rule will not significantly or uniquely affect small governments.

Executive Order 12612

The proposed rule would not have a substantial direct effect 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, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant BLM preparation of a Federalism assessment.

Executive Order 12630

BLM recognizes that in the case of *Public Lands Council* v. *Babbitt*, No. 95–CV–165–B, in the U.S. District Court for the District of Wyoming, the court implied that holders of existing grazing leases may have some undefined property rights. BLM and the Department of the Interior strongly disagree with this interpretation of the Taylor Grazing Act, and the case is currently on appeal. Should the Court of Appeals uphold this interpretation, BLM will consider preparing a Takings Implications Assessment under Executive Order 12630 to consider the implications of this proposed rule on private property rights.

Executive Order 12866

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866. BLM does not have to assess the potential costs and benefits of the rule under section 6(a)(3) of that order. The Office of Management and Budget has exempted the rule from review under that order.

List of Subjects in 43 CFR Part 2530

Indians—lands, National forests, Public lands, Reporting and recordkeeping requirements.

Dated: October 2, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

For the reasons set forth in the preamble and under the authority of the FLPMA (43 U.S.C. 1201; 43 U.S.C. 1740) BLM proposes to revise part 2530 of subchapter B, chapter II of title 43 of the Code of Federal Regulations as set forth below:

PART 2530—INDIAN ALLOTMENTS

Subpart 2530—Indian Allotments—General

Sec.

2530.1 What is the authority for granting an Indian allotment on public lands administered by BLM?
2530.5 What terminology should I know?
2530.10 What public lands are available for an Indian allotment?
2530.11 Where do I find information about applying for a native allotment in Alaska?
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Subpart 2531—Trust Patents

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Subpart 2532—Indian Allotments—National Forests

3532.1 What is the authority for filing an Indian allotment on public lands within a national forest?
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Authority: 25 U.S.C. 334 and 336.

Subpart 2530—Indian Allotments—General

§ 2530.1 What is the authority for granting an Indian allotment on public lands administered by BLM?

Section 4 of the Indian General Allotment Act of February 8, 1887 (25 U.S.C. 334), as amended by the Act of February 28, 1891 (26 Stat. 794), and section 17 of the Act of June 25, 1910 (25 U.S.C. 336), provide that if you are an Indian eligible for an allotment under existing laws, you may apply to the Bureau of Land Management (BLM) office having jurisdiction over the lands covered by the application to have the lands allotted to you and to your children in the manner provided by law.

§ 2530.5 What terminology should I know?

As used in this part, the term:

Act means the Indian General Allotment Act of February 8, 1887 (25 U.S.C. 334), as amended.

Allotment means a tract of land issued to individual Indians or a tribe by the United States of America in trust, restricted, or fee simple status by Acts of Congress.

Allowance means the applicant is authorized to enter the allotment for purposes of settlement.

Crop means any agricultural product to which the lands are generally adapted and which would show a profit when the expense of producing it is deducted.

Indian means a person who is a member of or eligible for membership in an Indian tribe.

Indian tribe means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group that, at the time of an application for an allotment pursuant to these regulations, is recognized by the Secretary of the Interior as eligible to receive services from the United States Bureau of Indian Affairs.

Irrigable lands means lands that are susceptible to successful irrigation from a known and adequate source of a supply of water and upon which agricultural crops can be profitably raised.

Irrigation means the application of water to lands to grow crops.

Mineral laws means those laws applicable to the mineral resources administered by the BLM. They include, but are not limited to, the mining laws, the mineral leasing laws, the mineral material disposal laws and the Geothermal Steam Act.

Mining laws means those laws as defined at § 3809.0–5(e) of this chapter.

Nonirrigable agricultural lands means lands upon which agricultural crops can be profitably grown without irrigation.

Nonirrigable grazing lands means lands suitable for grazing that cannot be profitably devoted to any other agricultural use.

Public lands means, for the purposes of these regulations, any lands, administered by the Bureau of Land Management, or lands within National Forests that are part of the original public domain and are not reserved, withdrawn, or otherwise not available for application under this Act.

Segregation means the temporary removal, subject to valid existing rights, of a specified area of the public lands from appropriation under the public land laws and mining laws, pursuant to the authority of the Secretary of the Interior to provide for the orderly administration of the public lands.

Settlement means occupancy and development of the lands in the allotment in a manner consistent with the applicant's plan of operation.

Trust patent means a patent issued to the United States of America in trust for an individual Indian or a tribe. Lands conveyed by trust patent cannot be alienated or encumbered without approval of the United States of America.

Water right means the right, whether by existing ownership, contract, purchase, or appropriation in accordance with State law, to use water on the lands for the purposes set out in the allotment.

Water supply means a permanent and adequate source of water that is sufficient for domestic, livestock, or agricultural purposes in accordance with the proposal in the allotment application.

§ 2530.10 What public lands are available for an Indian allotment?

BLM may approve an application for an allotment on any surveyed or unsurveyed public lands suitable for disposal under the Act not otherwise appropriated or segregated from surface entry by withdrawal or classification. BLM may allow an allotment on lands valuable or potentially valuable for leasable minerals with a reservation of the minerals interests of value to the United States. BLM will grant an allotment on public lands not included in a national forest if the lands under application are determined by BLM to be:

(a) Suitable and properly classified for development under the Indian General Allotment Act using the procedures and criteria in part 2400 of this chapter and will not exceed the maximum acreage requirements addressed in § 2530.12;

(b) Valuable for agricultural or grazing purposes; and

(c) Physically and economically suitable for support of an Indian or an Indian family and is applicable for that purpose. BLM's determination of economic feasibility will take into account all costs associated with settlement of the public lands covered by your application.

§ 2530.11 Where do I find information about applying for a native allotment in Alaska?

For native allotments in Alaska, see 43 CFR part 2560, subpart 2561.

§ 2530.12 What is the maximum acreage for an Indian allotment?

An allotment to any one Indian will not exceed the following acreage requirements:

(a) 40 acres of irrigable land;

(b) 80 acres of nonirrigable land; or

(c) 160 acres of nonirrigable grazing land.

§ 2530.13 What qualifications must I meet to be eligible for an Indian allotment?

(a) You must qualify as an Indian, as defined in this part, to be eligible for an Indian allotment on public lands.

(b) You must furnish documentation from the Bureau of Indian Affairs that shows you are an Indian eligible to apply for an Indian allotment. This documentation must show that you are a member of a recognized tribe, or are entitled to be so recognized. You must attach that documentation to your allotment application.

§ 2530.14 Do my minor children qualify for an Indian allotment, and how do they apply?

(a) If you are eligible for an allotment under the Act, you are also eligible, upon application, for an allotment for your living minor children, stepchildren, or other children as to whom you fill the role of parent. Orphan children (children whose both parents are deceased) are not eligible for an allotment unless they qualify under the criteria stated in § 2530.13.

(b) BLM requires the actual settlement by the parent or the person standing in place of the parents to substantiate the filing for an Indian allotment on behalf of minor children.

(c) In every case where you file an application for a minor child, you must show that you have an allotment under the Act and are using the land covered by your allotment in accordance with the Act's requirements.

(d) You may apply on behalf of a minor child, but you must show that your child resides with and receives subsistence from you.

§ 2530.15 What steps must I take prior to filing an application?

Prior to filing an application for an Indian allotment, you should consult with the appropriate staff in the BLM office that has jurisdiction over the lands covered by your application to:

(a) Determine availability of the lands you wish to apply for and water availability;

(b) Check for conformity with approved land use plans;

(c) Provide an explanation of the requirements of applicable law and regulations;

(d) Familiarize you with respective Federal and State responsibilities; and

(e) Avoid potential conflicts.

§ 2530.16 How do I apply for an Indian allotment?

(a) You must file an application in the BLM office having jurisdiction over the lands covered by your application in accordance with the provisions of regulation § 1821.2 of this chapter. No official BLM form is required.

(b) Your application must be accompanied by a nonrefundable filing fee of $100 and must include the following information:

(1) Name and address (including zip code); if you are applying on behalf of a minor child, the name and age of child and the your relationship to the child;

(2) Name of Indian tribe in which you claim membership or eligibility for membership;

(3) Documentation from the Bureau of Indian Affairs that you or your minor children are eligible for an Indian allotment, as provided in § 2530.2;

(4) Legal description of lands being applied for (township, range, meridian, section, subdivision, and state) and acreage;

(5) A plan of development that describes the proposed use of the land and description of improvements to be placed on the lands covered by the application;

(6) Types of allotments, if any, that you previously received under any Act of Congress; and

(7) A description of the manner in which you will make settlement on the lands covered by the application.

(c) BLM will not approve your application unless and until BLM determines that the public lands involved are suitable for disposal under the Indian General Allotment Act and classified pursuant to the provisions of § 2530.10 and part 2400 of this chapter.

§ 2530.17 What additional requirements must I meet to have my application approved?

In addition to the requirements stated in § 2530.12 and § 2530.13, you must meet the following requirements:

(a) Your description of the proposed use of the lands is consistent with all State and local zoning requirements, health and safety codes, and development standards;

(b) Your anticipated return from agricultural use of the lands would support the residents at an income level above that established at a subsistence level for rural agricultural families as established by the Bureau of Labor Statistics; and

(c) Where appropriate, your application must include documentation that the average rainfall is adequate for agricultural purposes or that, under State law, you have appropriated sufficient water to properly irrigate the allotment.

§ 2530.18 What will BLM do upon receipt of the above information?

BLM will notify the appropriate State agencies of your filing and will consult with those agencies as appropriate. BLM will analyze your proposed uses of the lands in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 *et seq.*) based on data you have provided and other available resource information. BLM also requires compliance with applicable laws, regulations and policies concerning hazardous substances.

§ 2530.19 What limitations apply to my application?

The following limitations apply to your application:

(a) Your filing of an application for an allotment under the provisions of this subpart does not segregate the land or confer any right, title, or interest in the land;

(b) You may not assign your application for an allotment to another individual; and

(c) Procedures for and limitations to seeking an allotment in the National Forests are found in subpart 2532 of this part.

§ 2530.20 How do I find out if my application is approved?

Upon completing review of your application, BLM will issue a proposed decision to you approving your application for an allotment if your application meets the following criteria:

(a) Your proposed development of the allotment is economically feasible;

(b) An environmental assessment, as required under the National Environmental Policy Act, shows that the proposed development is a suitable use of the requested land; and

(c) You have met the other qualifications identified in § 2530.15.

§ 2530.21 How are the public and affected parties made aware of the initial approval of my application?

In addition to notifying you of the proposed approval of your application, BLM will publish a notice of the proposed approval of your application once a week for 3 consecutive weeks in a newspaper of general circulation in the vicinity of the public lands specified in the application. BLM also will send copies of the notice to the Governor of the State, the head of the governing body of any political subdivision having zoning or other land use regulatory authority in the area within which the public lands covered by the notice are located, authorized users, and to other persons considered by BLM as likely to be interested including, but not limited to, adjoining and cornering landowners.

§ 2530.22 What information will the notice to the public include?

The notice that is published in the newspaper will include:

(a) A reference to the applicable land use plan;

(b) A legal description of the lands;

(c) Date of classification and proposed date to allow an allotment;

(d) A brief description of the plan of development;

(e) A statement as to the segregative effect; and

(f) An invitation for public comment.

§ 2530.23 How will BLM evaluate my comments and the comments or concerns of other interested parties?

BLM will analyze all comments received concerning your entry on the land covered by the allotment. In analyzing these comments BLM will consider the merits of the comments received. Comments may shed new light or information on the operation plan for your allotment, provide new evidence about environmental issues, provide local or regional governmental data that were formerly unknown, and provide other new details that pertain to the

suitability of approving or rejecting your allotment.

§ 2530.24 Can anyone appeal or protest the proposed decision on the allowance of my allotment?

For a period of 45 days from the initial date of publication in the newspaper, you or other parties may file a protest to the notice of a proposed decision granting the allotment, according to the procedures found in part 4,, subpart E of this title. If BLM rejects your protest, you have the right to appeal the rejection of the protest to the Interior Board of Land Appeals by following the procedures found in part 4, subpart E of this chapter.

§ 2530.25 If my application is rejected by BLM, how do I appeal?

You may appeal BLM's decision to deny you an allotment by following the procedures described in the applicable provisions of part 4 subpart E of this title. However, you may not appeal or protest the initial suitability and classification determination of the lands that resulted from the land use planning process. Protests of proposed or initial classification decisions are covered in part 2400 of this title.

§ 2530.26 How do I know when I may begin to develop my allotment?

BLM will issue a final decision approving your application for an Indian allotment and authorizing you to develop your allotment in accordance with the plan of operation. The decision will specify the date you may begin this development work. If the 2-year notification to grazing lessees is applicable, the allotment will not be allowed until the 2-year period has passed.

§ 2530.27 When do lands covered by my application for an allotment become segregated from appropriation under the public land laws and mining laws?

This event takes place on the date the decision allowing you to enter the lands covered by your application is issued. BLM will note the segregation on the public land records in accordance with § 1813.1 of this chapter. Subject to valid existing rights, the lands will remain segregated for a period not to exceed 2 years from the date of decision, unless BLM grants an extension of time due to circumstances specified under § 2531.2.

§ 2530.28 When will the segregative effect on my allotment terminate?

The segregative effect on your allotment terminates when one of the following events occurs:

(a) Automatically, when BLM issues you a patent or other document of conveyance to the affected lands; however, the lands remain closed to mineral entry because the minerals are reserved to the United States in trust for the individual Indian or Indians, together with the right to lease, extract or retain them;

(b) If either BLM cancels the allotment or you relinquish it, on the date and time specified in an opening order published in the Federal Register; or

(c) Automatically, when the 2-year segregation period or extension ends.

§ 2530.29 How do lands with existing grazing authorizations affect my allotment?

When BLM identifies lands for disposal and such disposal precludes livestock grazing, BLM will not approve your allotment until 2 years after we notify any permittees and lessees that we may cancel their grazing permit(s) or grazing lease(s) and grazing preference in accordance with § 4110.4–2(b) of this chapter. A permittee or lessee may unconditionally waive the 2-year prior notification.

Subpart 2531—Trust Patents

§ 2531.1 How do I obtain title to the lands covered by my allotment?

To be eligible to receive a trust patent (title) to the public lands covered by your allotment, you must occupy and develop your allotment within two years from the date of entry and file an application for a trust patent with the BLM office having jurisdiction over the lands covered by your allotment.

§ 2531.2 If I am unable to meet the 2-year time requirement for occupying and developing my allotment, can I obtain an extension of time?

Upon your request, BLM may grant an extension of not more than two additional years if you cannot implement your plan of operation upon your allotment within the two years provided in § 2531.1. BLM will grant an extension only in extraordinary circumstances, such as war, acts of God, or legal delays.

§ 2531.3 What criteria must I meet to obtain a trust patent?

Prior to conveyance of title, BLM will examine the lands covered by your allotment to assure compliance with the provisions of this part. When BLM has determined that you have, settled the lands covered by your allotment in accordance with your plan of development, BLM will issue a trust patent to you.

§ 2531.4 If my allotment is unsurveyed, may I receive a trust patent?

No. Your allotment must be surveyed before BLM may issue a patent.

§ 2531.5 In the event of my death, will my heirs be notified of my eligibility for a trust patent?

In cases where the death of an allottee is reported to BLM, BLM will attempt to notify heirs of the allottee that they have 90 days from receipt of the notice to submit proof to BLM that the allottee personally settled on the lands covered by the allotment and met all other requirements for a trust patent. BLM will describe to the heirs what form of proof is acceptable. BLM will cancel the allotment for failure of your heirs to submit the proof required by this section within the time allowed will result in cancellation of the allotment.

§ 2531.6 In the event of my death, may my heirs receive a trust patent?

Yes, where an allottee dies after complying with the requirements to obtain title but prior to issuance of a trust patent, BLM will issue to the heirs of the deceased allottee a trust patent for lands covered by the allotment without requiring further occupancy or use on their part.

Subpart 2532—Indian Allotments—National Forests

§ 2532.1 What is the authority for filing an Indian allotment on public lands within a national forest?

Section 31 of the Act of June 25, 1910 (25 U.S.C. 337), authorizes allotments on public lands within national forests under the Act.

§ 2532.2 What limitations do I have in applying for an allotment on public lands within a national forest?

You may apply only for surveyed or unsurveyed public lands of the United States within a national forest, when continuous occupancy or improvements by eligible Indians existed either from June 25, 1910, or at the time the national forest was created. If there are lands valuable for leasable minerals, BLM may approve your application for an allotment, subject to a reservation of the mineral interests of value to the United States.

§ 2532.3 What conditions must I meet to qualify for an allotment on public lands within a national forest?

To meet the qualification requirements, you must be an Indian who occupies, lives on, or has improvements on the lands. No other conditions qualify you for an Indian allotment. If you are entitled to an allotment on any existing Indian reservation, or belong to any Indian tribe that does not have a reservation, or the reservation is insufficient in size to afford an allotment to each member of

that tribe, you are not entitled to an allotment.

§ 2532.4 How do I apply for an Indian allotment on public lands within a national forest?

To apply for an allotment on public lands within a National Forest, you must submit an application to the District Ranger or the Forest Supervisor of the particular forest where the lands are located. Your application must contain the information specified in § 2530.16. You must also remit a nonrefundable filing fee of $100.

§ 2532.5 How will my application be processed?

(a) The responsible Forest Service official will process your application in accordance with the regulations at 36 CFR 254.50, unless the land is withdrawn or otherwise unavailable for filing. If the lands are not available for filing, the Forest Service will notify BLM that the lands are not available, and your application will be rejected.

(b) The Secretary of Agriculture will determine whether any of the lands you applied for are more valuable for agriculture or grazing than for the timber found on the land. He or she will send the application, this finding, and a report on the suitability of the land for disposal under the Act, to the Secretary of the Interior. The land suitability report will analyze such factors as physical characteristics of the land, potential uses and users of the land, land use planning, and environmental considerations.

(c) Upon receipt of a determination and suitability report from the Secretary of Agriculture, the Secretary of the Interior will, after consideration of all relevant information, decide if the land applied for is suitable for disposal under the Act. If the Secretary approves the application, BLM will issue a trust patent in accordance with subpart 2531 of this part.

§ 2532.6 What may I do if my application is rejected?

If the Secretary determines that the land covered by your application is not suitable for disposal under the Act, BLM will send you a decision to this effect. You may appeal a decision rejecting your application under the provisions contained in part 4, subpart E of this title.

[FR Doc. 96–26103 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 960917262–6262–01; I.D. 122294A]

Listing Endangered and Threatened Species; Shortnose Sturgeon in the Androscoggin and Kennebec Rivers, ME

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

ACTION: Denial of petition.

SUMMARY: NMFS finds that a petitioned action to remove shortnose sturgeon (*Acipenser brevirostrum*) occurring in the Androscoggin and Kennebec Rivers from the List of Endangered and Threatened Wildlife is not warranted at this time.

Shortnose sturgeon in the Androscoggin and Kennebec Rivers continue to face substantial threats to their habitat and/or range, and existing regulatory mechanisms other than the Endangered Species Act (ESA) are inadequate to ensure the detailed review and management of these threats. Moreover, the Petersen population estimate used by the petitioner is higher and less reliable than the best estimate accepted by NMFS. The Schnabel population estimate used by NMFS also has limitations, but is the best available information upon which a listing decision can be based. NMFS lacks critical, recent information on population dynamics (e.g., natality, natural mortality, age or size structure) that could be used to assess how well the Androscoggin River and Kennebec River breeding populations are replacing themselves over time.

ADDRESSES: A copy of the Status Review of Shortnose Sturgeon in the Androscoggin and Kennebeck Rivers (NMFS, 1996) is available upon request to the National Marine Fisheries Service, Office of Protected Resources (F/PR), 1315 East-West Highway, Silver Spring, MD, 20910.

FOR FURTHER INFORMATION CONTACT: Marta Nammack, Endangered Species Division, NMFS, (301/713–1401).

SUPPLEMENTARY INFORMATION:

Petition Background

On September 19, 1994, NMFS received a petition from Edwards Manufacturing Company, Inc., to remove shortnose sturgeon in the Kennebec River system (the Androscoggin and Kennebec Rivers) in Kennebec, Sagadahoc and Lincoln Counties, ME, from the List of Endangered and Threatened Wildlife (50 CFR 17.11). In support of its petition, petitioner cited research conducted on shortnose sturgeon in the Androscoggin and Kennebec Rivers over the last two decades and an initial population estimate averaging 11,000 adult shortnose sturgeon. Additionally, density data (shortnose sturgeon per hectare) reported from six river populations, including the Kennebec River, were used to infer that, at least, the Kennebec River system was supporting a shortnose sturgeon population near carrying capacity.

On January 6, 1995, NMFS issued a 90-day finding (60 FR 2070) that the petition presented substantial information indicating that the petitioned action may be warranted. NMFS initiated a status review of shortnose sturgeon occurring within the Androscoggin and Kennebec Rivers and, using the best scientific and commercial data available, assessed whether shortnose sturgeon inhabiting the Androscoggin and Kennebec Rivers could be delisted as requested by the petitioner.

When originally listed, shortnose sturgeon were considered endangered throughout their range in the eastern United States, though not all extant populations were identified at the time of their original listing. Today, at least 17 populations of shortnose sturgeon are known within the species' wide latitudinal range. Recognizing that the knowledge concerning shortnose sturgeon increased during the years following the species' ESA listing, NMFS began a status review in the late 1980s to assess whether individual shortnose sturgeon populations should be considered ''distinct'' for ESA purposes.[1] Further, the status review was also used to investigate changes to the listing status of these individual populations in instances where changes appeared warranted. In the 1987 status review, NMFS stated that:

> the differences reported in longevity, growth rates, and age at sexual maturity between shortnose sturgeon from the northern and southern extremes of its range are expected in any species with a wide latitudinal distribution. The best available information also indicates differences in life history and habitat preferences between the northern and southern river systems

[1] In the 1978 amendments to the ESA, the definition of ''species'' was changed to: ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.''

(Dadswell et al., 1984) although available genetic and morphometric data do not support any taxonomic splitting of the species. However, given the species' anadromous breeding habits, it is unlikely that populations in adjacent river systems interbreed with any regularity. Therefore, until interbreeding is confirmed, we will consider each population within a river system to be a distinct unit under the ESA definition of ''species.''

The 1987 status review also indicated that the listing status of the shortnose sturgeon population in the Kennebec River system (including the Androscoggin River) should be re-evaluated and that available information indicated that the ''population'' in the Kennebec and Androscoggin Rivers may no longer require protection under the ESA. This suggestion was met with disagreement in the scientific community in comments NMFS received on the status review. Therefore, a team of NMFS biologists and other scientists from state and private agencies was convened to critically review the 1987 status review and assess the merits of the listing recommendations contained within the status review. However, the team did not complete its task, and no changes to the listing status of shortnose sturgeon populations were proposed.

Section 4(a) of the ESA mandates that the Secretary of Commerce determine whether a species is an endangered or threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, or scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. NMFS, in determining whether to delist a species, must consider the same five factors.

Status as a ''Species'' Under the ESA

In response to this petition, NMFS conducted a peer-reviewed status review of shortnose sturgeon in the Androscoggin and Kennebec Rivers to determine if the populations inhabiting these rivers were separate DPSs under the ESA definition of ''species.'' That report, ''Status Review of Shortnose Sturgeon in the Androscoggin and Kennebec Rivers (NMFS, 1996),'' is available upon request (see **ADDRESSES**). Significant findings described in the status review, as they pertain to this petition finding, are summarized below.

Shortnose sturgeon occur in the estuarine complex formed by the Androscoggin, Kennebec, and Sheepscot Rivers. The Maine Department of Marine Resources (MDMR) began studying sturgeon in the Kennebec and Androscoggin Rivers in 1977 to determine the distribution and abundance of adults of the species. The MDMR conducted a pooled adult population estimate for the Androscoggin and Kennebec Rivers using the Petersen and Schnabel population size estimators (Krebs, 1989). These estimates involve marking and recapturing fish and incorporate similar assumptions about the population, though the calculations differ in slight but significant ways. The NMFS and the MDMR agree that the Schnabel estimate is more reliable than the Petersen estimate for a multiple census-based population estimate. Although the two estimates are point estimates derived from 15-year-old data, these data provide the best available information on the distribution and abundance of adult shortnose sturgeon occurring in the Kennebec and Androscoggin River systems.

Based on the joint NMFS/U.S. Fish and Wildlife Service (USFWS) policy regarding the recognition of DPSs under the ESA (61 FR 4722, February 7, 1996), the following criteria are considered in determining the status of a possible DPS under the ESA: (1) Discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment in relation to the remainder of the species to which it belongs; and (3) the population's conservation status in relation to ESA standards for listing (i.e., is the population segment, when treated as if it were a species, endangered or threatened?). These three criteria are discussed briefly below and in more detail in the status review.

Discreteness

To be discrete, a sturgeon population must be markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors, or be delimited by international boundaries. Quantitative measures of genetic or morphological discontinuity may provide evidence for this separation. Waples (1991) and NMFS (56 FR 58612, November 20, 1991) provided guidance for determining the ''discreteness'' and evolutionary significance of Pacific salmon populations. This guidance was used to develop the current policy on DPSs that applies to all vertebrates. In making a determination of population distinctness under the ESA, Waples (1991) recommends, as a first step, considering whether a population is substantially isolated reproductively from other conspecific populations.

Shortnose sturgeon populations show a high degree of reproductive isolation (Dadswell, 1976; Dadswell et al., 1984). Ocean captures of shortnose sturgeon are extremely rare, and straying rates between stocks, though unmeasured, appear to be very low, based on the lack of recaptures of tagged fish in adjacent rivers. Given this pattern, which seems to predominate more in the northern portion of the sturgeon's range, some authors have suggested that ''amphidromy'' (limiting migrations to natal estuaries) best describes the shortnose sturgeon's life history pattern (Bain, in press; Kynard, in press). Squiers et al. (1981) captured fish in spawning condition in the Androscoggin and Kennebec Rivers in May of 1980 and 1981. This information indicates that each river supports spawning populations of shortnose sturgeon, though it does not provide conclusive evidence for river-specific spawning stocks. However, there is ample evidence from other, well-studied sturgeon populations to support a trend of river-specific spawning (Buckley and Kynard, 1985; Dadswell et al., 1984; Dovel, 1981; O'Herron et al., 1992). Based on this information, and to be biologically conservative with respect to stock discreteness, NMFS considers shortnose sturgeon populations in the Androscoggin and Kennebec Rivers likely to be reproductively separate, and, therefore, discrete populations.

Significance

With such limited information on the biology and ecology of either population and the habitats occupied by shortnose sturgeon in both systems, NMFS is unable to assess the biological or ecological significance of either population segment independently. Although the populations in question may meet the first criterion of a DPS (discreteness), there are not enough biological data currently available to classify each population as a DPS. Therefore, NMFS' 1987 decision to combine the Androscoggin and Kennebec River populations as a single distinct unit, for ESA purposes, is consistent with the current DPS policy. NMFS refers to this DPS as the Androscoggin/Kennebec Rivers DPS comprised of the Androscoggin and Kennebec River breeding populations. Further studies may reveal significant differences and, if warranted at a future time, necessitate separate DPS listings for both the Androscoggin River and Kennebec River populations.

Conservation Status in Relation to ESA Standards for Listing

The most reliable population estimate for shortnose sturgeon in the Androscoggin and Kennebec Rivers DPS is the composite Schnabel estimate: An average of 7,222 with a 95 percent confidence interval of 5,046 to 10,765 (Squiers et al., 1981). This is considered to reflect a combined population of adult shortnose sturgeon that spawn throughout the Androscoggin/Kennebec Rivers DPS. Shortnose sturgeon are known to spawn in cycles, and estimates indicate that adults may spawn at intervals of 3 years (Dovel, 1981; Dadswell et al., 1984). Thus, of this group of potential spawners, only one third are expected to spawn each year (Dovel, 1981; Boreman, 1992). Using the adult population estimates obtained by the MDMR, the range of census adult population sizes is 1,682 to 3,588 fish, one-third of the total adult population size or the number of annually spawning fish. This range reflects a combined estimate for adult fish inhabiting both the Androscoggin and Kennebec Rivers (the breeding populations constituting the Androscoggin/Kennebec DPS). The estimate of the subpopulation in each river is unknown. Potentially, shortnose sturgeon in one of these rivers may be persisting at extremely low levels.

NMFS also examined indices of catch-per-unit effort, length/age frequencies, and other types of data to evaluate the breeding populations in the Androscoggin/Kennebec Rivers DPS. Catch-per-unit effort has increased in the Androscoggin River (Squiers et al., 1993), and may be viewed as a positive indication that this population was recruiting successfully in the early 1980s. A current population estimate, using similar capture methodology to that in the previous estimate, could be used to confirm this. NMFS does not have adequate length frequency data for either the Androscoggin or Kennebec Rivers to construct age or size-structured population models for each breeding population. This severely impedes NMFS' ability to assess the listing status of Androscoggin/Kennebec Rivers DPS. Section 4(b)(1) of the ESA requires that all decisions to list, change the status of, or delist a species be based on the best scientific and commercial data available.

Using the Petersen population estimate of 10,000 fish in the Androscoggin and Kennebec Rivers, the petitioner cited calculations of average density (shortnose sturgeon per hectare) to infer that the Kennebec River shortnose sturgeon population is ''at or near carrying capacity regarding available food production.'' This conclusion is unfounded because the Petersen population estimate used by the petitioner to derive density estimates is questionable because it was not based on a statistically reliable sample size and it relied on a faulty methodology and inaccurate statistical assumptions (NMFS, 1996). NMFS considers the Schnabel estimate of 7,222 fish to be the best estimate of the adult segment of the populations comprising both the Androscoggin and Kennebec Rivers. Also, NMFS lacks critical information about current river-specific population sizes and shortnose sturgeon population dynamics in the Androscoggin and Kennebec Rivers to assess density-dependent and density-independent factors that might lead to an estimate of carrying capacity. Finally, the petitioner's estimate of hectares of bottom habitat is not a direct measure of prey density. Without knowledge that suitable habitat exists for shortnose sturgeon (i.e., that it is adequate for reproduction, foraging, and overwintering), an estimate of bottom surface area is not meaningful.

The petitioner also cited Dadswell et al. (1984) to support the assertion that sturgeon densities are high with respect to available bottom habitat. However, Dadswell et al. (1984) point out that making assumptions about total population sizes from discrete estimates of foraging population sizes is not sound:

> Population size projections, for rivers with poorly known populations, that use densities calculated for feeding concentrations rather than average densities * * * are inappropriate.

The Petersen estimate cited was derived from an average of nine mark-recapture estimates that were concentrated on the summer feeding grounds of adult shortnose sturgeon.

NMFS' ''Status Review of Shortnose Sturgeon in the Androscoggin and Kennebec Rivers'' (NMFS, 1996) analyzed the five listing factors from section 4(a) of the ESA and reached the following conclusions: (1) Shortnose sturgeon in the Androscoggin and Kennebec Rivers continue to face substantial threats to their habitat and/or range due to hydroelectric facilities, channel dredging, and the introduction of pollutants via sewage treatment plants, paper mills, and other industrial facilities; (2) overutilization of shortnose sturgeon for commercial, recreational, scientific, or commercial purposes is not currently a threat in the Androscoggin and Kennebec Rivers, but pressure for commercial utilization could increase if the species were removed from protected status; (3) the influence of disease or predation on shortnose sturgeon in the Androscoggin and Kennebec Rivers has not been investigated; (4) existing regulatory mechanisms other than the ESA limit the direct harvest of shortnose sturgeon but are inadequate to ensure the detailed review of potentially damaging construction activities that are closely scrutinized through the ESA Section 7 consultation process; and (5) NMFS is not aware of any other natural or anthropogenic factors affecting shortnose sturgeon survival in the Androscoggin and Kennebec Rivers DPS.

Documented recovery criteria for shortnose sturgeon populations do not currently exist, although the NMFS Shortnose Sturgeon Recovery Team established in 1992 is presently drafting a Shortnose Sturgeon Recovery Plan that will include such criteria. In the absence of these criteria, and as a supplement to NMFS' analysis of the five ESA listing factors, NMFS used interim criteria from the conservation biology literature to evaluate the status of shortnose sturgeon populations in the Androscoggin and Kennebec Rivers. This additional information is discussed in the ''Status Review of Shortnose Sturgeon in the Androscoggin and Kennebec Rivers (NMFS, 1996).''

Determination

NMFS finds that the petitioned action to delist shortnose sturgeon in the Androscoggin and Kennebec Rivers is not warranted at this time. Based on the factors specified in the ESA to guide listing decisions, NMFS concludes that shortnose sturgeon in the Androscoggin and Kennebec Rivers DPS continue to face substantial threats to their habitat and/or range and that existing regulatory mechanisms other than the ESA are inadequate to ensure the detailed review and management of these threats. The potential of habitat modification or direct takes of shortnose sturgeon to impede the recovery of the species in the Androscoggin and Kennebec Rivers warrants serious consideration before any changes are made in the species' listing status.

Moreover, the Petersen population estimate used by the petitioner is higher and less reliable than the best (Schnabel) estimate accepted by NMFS. Even if the Petersen population estimate was accepted, NMFS lacks critical, recent information on population dynamics (e.g., natality, natural mortality, age or size structure) needed to assess how well the Androscoggin River and Kennebec River breeding

populations are replacing themselves over time.

In consideration of the DPS definition for shortnose sturgeon, NMFS concludes that available data are insufficient to warrant designating the individual populations in the Androscoggin River and Kennebec River as DPSs (species) under the ESA. Therefore, as first determined in NMFS' 1987 status review, NMFS views shortnose sturgeon in the Androscoggin and Kennebec Rivers as a single DPS comprised of at least two local breeding populations. Future studies may reveal significant differences and, if warranted, necessitate separate DPS listings for the Androscoggin River and Kennebec River populations.

Dated: October 9, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–26387 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 201
Wednesday, October 16, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of the Preparation of the Ozark/Ouachita Highlands Assessment and the Beginning of Forest Plan Revision Efforts for the Ouachita, Ozark-St. Francis, and Mark Twain National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the U.S. Forest Service's participation in the preparation of the Ozark/Ouachita Highlands Assessment (OOHA). The Assessment is being prepared by the Southern and Eastern Regions of the National Forest System, the Southern Research Station, and the North Central Forest Experiment Station, in cooperation with other Federal and State agencies, in order to compile information about regional conditions and trends relevant to upcoming revisions of the land and resource management plans of three National Forests. Assessment findings will help establish the need for any changes in National Forest land and resource management plans and, possibly, land management plans of some other public lands in the Ozark/Ouachita Highlands. National Forest lands within the study area include those of the Ouachita, Ozark-St. Francis, and Mark Twain National Forests, totalling nearly 4.5 million acres. Other federal lands within the assessment area include National Park Service lands (Hot Springs National Park, the Ozark National Scenic Riverways, Buffalo National River, and several smaller untis); more than 20 reservoirs managed by the U.S. Army Corps of Engineers, including Lake Ouachita, Greers Ferry Lake, Eufala Lake, Bull Shoals Lake, and Table Rock Lake; and at least six National Wildlife Refuges administered by the U.S. Fish and Wildlife Service. State Parks, natural areas, and wildlife management areas are found in each of the three states—Arkansas, Missouri, and Oklahoma—in the assessment area. The majority of the land within the analysis area is in private ownership of many types and sizes. Several forest product companies have expansive holdings that are managed primarily for timber production.

This Notice also announces the beginning of efforts to revise the Land and Resource Management Plans (Forest Plans) for the Ouachita, Ozark-St. Francis, and Mark Twain National Forests. This is not the ''Notice of Intent'' (NOI) for the Environmental Impact Statements (EISs) that will accompany the Revised Forest Plans. Those NOIs will be issued at a later date.

The Ozark/Ouachita Highlands Assessment will support and facilitate land and resource management decisions to be made in Forest Plan revisions. As the National Forests are providing information for the Ozark/Ouachita Highlands Assessment, they will also be conducting local efforts to complete each National Forest's Analysis of the Management Situation (AMS).

The Assessment will be used to help develop each National Forest's ''Need for Change'' section in the AMS. This information will then be used to publish the NOIs to prepare the Environmental Impact Statements, which will begin the National Environmental Policy Act (NEPA) processes associated with each Forest Plan revision.

Public involvement is critical throughout these processes and will be requested and accepted continually throughout these efforts. Formal public involvement with the Forest Plan revision efforts will also be conducted through ''Scoping'', following the issuance of the National Forests' NOIs.

DATES: The Ozark/Ouachita Highlands Assessment is scheduled to be completed by January 1998.

The Ouachita, Ozark-St. Francis, and the Mark Twain National Forests are scheduled to complete the drafts of their Analyses of the Management Situation by mid-1998. During this same time period, these Forests are scheduled to issue NOIs to Prepare Environmental Impact Statements for Revised Forest Plans.

ADDRESSES: Requests for information, and comments concerning this Notice can be sent to Team Leader, Ozark/Ouachita Highlands Assessment, USDA Forest Service, P.O. Box 1270, Hot Springs, Arkansas 71902.

SUPPLEMENTARY INFORMATION:

1. Preparation of the Ozark/Ouachita Highlands Assessments

The Ozark/Ouachita Highlands Assessment includes approximately 45 million acres within the states of Missouri, Arkansas, and Oklahoma. Federal lands make up less than 15 percent of the area; but their importance for recreation, plant and animal diversity, forest cover, local economic development, wood products, water and minerals is substantial. The region as a whole is undergoing fairly rapid change, marked by population growth in many counties; market shifts; increased pressures on timber, water, mineral, and recreational resources; expanding transportation networks; and changing agricultural and silvicultural practices. Future decisions about public land management in the Ozark/Ouachita Highlands must be made within this context of social, economic, and environmental change. The Assessment will provide a synthesis of available information, including databases, maps, and research findings, that supports an interagency approach to ecosystem management on federal lands in the Ozark/Ouachita Highlands area.

Collection of existing broad-scale data concerning the Ozark/Ouachita Highlands is organized around three ''themes''—(1) Social and Economic (Human Dimensions)—which includes social conditions and trends, economic conditions and trends, attitudes and values, and roadless areas and wilderness; (2) Terrestrial—which includes the Health of Forest Ecosystems, and Plant and Animal Resources; and (3) Aquatic/Atmospheric—which includes the present status and trends in water and air quality.

Public comment on the OOHA process began with a meeting of the Ouachita National Forest's Ecosystem Management Advisory Committee in Little Rock, Arkansas, March 28, 1996, and another meeting of the committee in Fort Smith, Arkansas, May 17, 1996. A public announcement and related press notice concerning the Assessment were

distributed on July 15, 1996. As the Assessment progresses, continued public involvement will be facilitated through additional meetings, newsletters, and electronic media.

2. Beginning of the Forest Plan Revision Efforts for the Ouachita, Ozark-St. Francis, and Mark Twain National Forests

This Notice announces that the Ouachita, Ozark-St. Francis, and Mark Twain National Forests have already started or are beginning efforts to revise their Forest Plans. These Forests are each in the very early stages of preparing an AMS, one of the first steps in the revision process. This step includes updating resource inventories, defining the current situation, estimating supply capabilities and resource demands, and determining the ''Need for Change'' (36 CFR 219.12(e)(5)).

3. Public Involvement in Developing the ''Need for Change'' in an AMS

Determining the concerns and expectations of National Forest constituents and getting public input on how well current Forest Plans are working, or not working, are critical elements of describing the ''need to change'' a Forest Plan. An integral part of determining the need for change is public involvement. Each of the National Forests described above either have already, or will soon contact its interested publics to solicit their participation in this step of the Forest Plan revision process.

4. Relationship Between the AMS and a Notice of Intent to Prepare an Environmental Impact Statement

In the past, a ''Notice of Intent to Prepare an Environmental Impact Statement'' was issued at the beginning of the forest planning process, including before the development of the AMS.

This time, we are first defining the current situation and an initial ''need for change'' in a Draft AMS, and then issuing a NOI prior to developing alternatives. This will allow us to incorporate a more definable ''Proposed Action'' and ''Purpose and Need'' into our NOIs, which will begin the formal NEPA process of preparing the EISs that will accompany the Revised Forest Plans.

5. Relationship Between the Ozark/Ouachita Highlands Assessment and the Process for Revising the Forest Plans for Each National Forest

Some individuals may be concerned that the Ozark/Ouachita Assessment will ''delay'' revising Forest Plans in the Ozark/Ouachita Highlands. However, the OOHA is being conducted concurrently, and in support of, the Forest Plan revisions.

Many of the information needs for the Forest AMSs and for the OOHA are the same. The Assessment will support the revision of the Forest Plans by determining how the lands, resources, people and management of the National Forests interrelate within the larger context of the Ozark/Ouachita Highlands Area. The OOHA, however, will not be a ''decision document'' and it will not involve the NEPA process. As broad-scale issues are identified and addressed at the sub-regional level in the Assessment, the individual National Forest's role in resolving those broad-scale issues will become a part of the ''need for change'' at the Forest level.

6. Issuing the Notice of Intent to Prepare an EIS

The National Forests identified above will issue their NOI once they have developed the ''Need for Change'' section of their respective Draft AMSs. The Draft AMSs are scheduled to be completed by mid-1998; NOIs are also scheduled to be issued during this same time period.

Each NOI will include a description of a preliminary ''Proposed Action'', based on the ''Need for Change'' analysis in the Draft AMS, the preliminary issues, and some preliminary alternatives. Scoping to receive public comments on the preliminary propose action, issues and preliminary alternatives will begin following the publication of the NOIs. These public comments will be used to further refine the ''Proposed Action'', the preliminary issues and the preliminary alternatives, to possibly identify additional alternatives, and to complete the AMS and the ''Need for Change.''

7. The Responsible Official

The Responsible Official for this notice is Bill Pell, Assessment Team Leader, USDA Forest Service, 100 Reserve Street, Box 1270, Federal Building, Hot Springs, Arkansas 71902.

Dated: October 9, 1996.

Bill Pell,

Assessment Team Leader.

[FR Doc. 96–26503 Filed 10–15–96; 8:45 am]

BILLING CODE 3410–11–M

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on October 24, 1996 at Brookings Inn, Brookings, Oregon. The meeting will begin at 9:00 a.m. and continue until 4:15 p.m. Agenda items to be covered include: (1) Local area issues presentation; (2) Guidelines for new working groups; (3) Grazing committee report; (4) Year-end review of Province Advisory Committee work, and (5) Public comments. All Province Advisory committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kurt Austermann, Province Advisory Committee staff, USDI, Medford District, Bureau of Land Management, 3040 Biddle Rd., Medford, Oregon 97504, phone 541–770–2200.

Dated: October 8, 1996.

Charles J. Anderson,

Acting Forest Supervisor, Designated Federal Official.

[FR Doc. 96–26444 Filed 10–15–96; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

Advisory Committee Meeting; Cancellation

AGENCY: Natural Resources Conservation Service.

ACTION: Notice.

SUMMARY: The Natural Resources Conservation Service is cancelling the meeting of the Task Force on Agricultural Air Quality scheduled for October 25, 1996, to provide time to complete the selection process for Task Force membership. A rescheduling of this meeting will be announced in the Federal Register in approximately 90 days under Notices. The original meeting was announced in the Federal Register of October 7, 1996 (61 FR 52406).

FOR FURTHER INFORMATION CONTACT: George Bluhm, University of California, Land, Air, Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827. Telephone (916) 752–1018, fax (916) 752–1552.

Dated: October 9, 1996

Richard L. Duesterhaus,

Deputy Chief, Science and Technology.

[FR Doc. 96–26478 Filed 10–15–96; 8:45 am]

BILLING CODE 3014–16–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado 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 Colorado Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 4:00 p.m. on October 31, 1996, at the Mile High Center, 1700 Broadway, Suite 490, Denver, Colorado 80290. The purpose of the meeting is to plan for implementation of civil rights community forums in Colorado.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Arcese, 303–556–3139 or John F. Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). 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, October 3, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–26480 Filed 10–15–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Washington 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 Washington Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:00 p.m. on October 30, 1996, at the Westin Hotel, 1900 Fifth Street, Seattle, Washington 98101. The purpose of the meeting is to discuss and finalize a draft report on disproportionality in the juvenile justice system.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson William Wassmuth, 206–223–0611, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). 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, October 4, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–26479 Filed 10–15–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100296J]

Endangered Species; Permits

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

ACTION: Receipt of an application for an enhancement permit (P45W) and an application for a scientific research permit (P622).

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service in Sacramento, CA (FWS) has applied in due form for an enhancement permit and the California Department of Fish and Game in Sacramento, CA (CDFG) has applied in due form for a scientific research permit authorizing takes of an endangered species.

DATES: Written comments or requests for a public hearing on either of these applications must be received on or before November 15, 1996.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Written comments or requests for a public hearing should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: FWS and CDFG request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

FWS (P45W) requests a 5-year enhancement permit for annual takes of adult and juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with a propagation program at FWS's Coleman National Fish Hatchery and a captive broodstock program at Steinhart Aquarium in San Francisco and the Bodega Marine Laboratory in Bodega Bay. Takes of ESA-listed winter-run chinook salmon associated with the propagation and captive broodstock programs is currently authorized under permit 747. Permit 747 was issued to FWS on August 8, 1991 and will expire on November 30, 1996.

The objective of the propagation program is to supplement the wild population. ESA-listed, naturally-produced and artificially-propagated adults are proposed to be captured, transported, maintained, and spawned annually in a protected hatchery environment. The progeny of the captured adults will be adipose fin-clipped, tagged with coded wires, and released into the wild or transferred to the captive broodstock program. To monitor the propagation program, carcasses of the adult, ESA-listed fish that return to spawn in the wild are proposed to be collected from the mainstem Sacramento River and Battle Creek and sampled for tissues and tags. The purpose of the captive broodstock program is to maintain the genetic integrity of the ESA-listed salmon species in a hatchery environment. The captive broodstock program will provide: Protection against loss of genetic material, a source of gametes for the propagation program, a source of progeny to supplement the wild fish, security until the habitat conditions in the Sacramento River improve, egg and fry for experimental purposes, and a potential tool to assist in the recovery of the species.

CDFG (P622) requests a one-year scientific research permit for takes of adult and juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with two studies. Any juvenile, ESA-listed, artificially-propagated, winter-run chinook salmon taken during both studies will be sacrificed, frozen, and provided to FWS for research. For Study 1, CDFG propose to establish a pilot program at Knights Landing on the Sacramento River for monitoring juvenile anadromous fish migration. The purpose of the monitoring program is to evaluate the utility of the site and various sampling protocols in determining the timing and abundance of juvenile anadromous salmonids emigrating to the Sacramento-San Joaquin Delta. Juvenile,

ESA-listed, naturally-produced, juvenile fish are proposed to be captured (with rotary screw traps, fyke traps, and a kodiak trawl), anesthetized, handled, allowed to recover from the anesthetic, and released. Associated indirect mortalities of juvenile, ESA-listed fish are also requested.

For Study 2, CDFG propose to determine the relationship between manageable physical habitat attributes (flow, temperature, channel aspects) and anadromous salmonids within the upper reaches of the Sacramento River and throughout the river system up to ocean entry. Information relating spawning distribution (temporal and spatial), spawning success, juvenile survival, production, and emigration will be determined relative to habitat conditions. This information will be used to identify management actions required for the survival of anadromous fish resources. Carcasses of adult, ESA-listed fish (both in-river and hatchery-reared) are proposed to be recovered and sampled for tissues and tags. Juvenile, ESA-listed, naturally-produced, fish are proposed to be captured (with rotary screw traps, a beach seine, and a kodiak trawl), anesthetized, handled, allowed to recover from the anesthetic, and released. Associated indirect mortalities of juvenile, ESA-listed fish are also requested.

Those individuals requesting a hearing should set out the specific reasons why a hearing on any of the applications would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in these application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: October 9, 1996.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–26388 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 100996D]

Endangered Species; Permits

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

ACTION: Issuance of incidental take permit 1,017 (P211K) and modification 5 to scientific research permit 818 (P211C).

SUMMARY: Notice is hereby given that NMFS has issued an incidental take permit and a modification to a scientific research permit that authorize takes of Endangered Species Act-listed species, subject to certain conditions set forth therein, to the Oregon Department of Fish and Wildlife (ODFW) at Portland, OR and La Grande, OR.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The permit and modification to a permit were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on August 7, 1996 (61 FR 41130) that an application had been filed by ODFW (P211K) for an incidental take permit. Permit 1,017 was issued to ODFW on September 30, 1996. Permit 1,017 authorizes ODFW an annual incidental take of resident, fluvial, and anadromous, endangered, Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*) associated with the state of Oregon's recreational and commercial fisheries in the Umpqua River Basin. ODFW is charged by statute with the management and protection of the fish and wildlife resources of the state. An individual incidental take permit was issued since ODFW is responsible for establishing the State's fishing regulations and controls fishing activities by issuing licenses to citizens. Pursuant to the incidental take authorization, ODFW will implement a conservation plan that includes measures designed to minimize the incidental take of ESA-listed cutthroat trout. ODFW requested a five-year permit. However, since ODFW will monitor the fisheries in the Umpqua River Basin for at least three years to obtain more precise information on the incidental take of ESA-listed cutthroat trout, NMFS determined that permit 1,017 be issued for a period of three years, with annual review and authorization requirements. Accordingly, Permit 1,017 will expire on September 30, 1999.

Notice was published on August 6, 1996 (61 FR 40821) that an application had been filed by ODFW (P211C) for modification 5 to scientific research permit 818. Modification 5 to permit 818 was issued to ODFW on September 30, 1996. Permit 818 authorizes annual takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) for scientific research. For modification 5, permit 818 has been extended to be effective for approximately five years. Permit 818 was issued to ODFW on April 22, 1993 and is now set to expire on June 30, 1998. Also for modification 5, ODFW is authorized an increase in the takes of adult and juvenile, ESA-listed salmon associated with new studies in the Wallowa River Basin. The new research will provide essential information on the life history and critical habitat of the spring chinook salmon populations in the Wallowa River Basin. The information collected will enable managers to make more effective decisions concerning the protection and enhancement of critical habitat.

Issuance of the permit and permit modification, as required by the ESA, was based on a finding that such actions: (1) Were requested in good faith, (2) will not operate to the disadvantage of the ESA-listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: October 9, 1996.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–26499 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 100396A]

Marine Mammals; Permit No. 976 (P5H)

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

ACTION: Scientific research permit amendment.

SUMMARY: Notice is hereby given that a request for amendment of scientific research permit no. 976 submitted by Dr. Donald B. Siniff, University of Minnesota, 1987 Upper Buford Circle, St. Paul, MN 55108, has been granted.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250).

SUPPLEMENTARY INFORMATION: On July 26, 1996, notice was published in the Federal Register (61 FR 39120) that an amendment of permit no. 976, issued on August 29, 1995 (60 FR 46576), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: October 3, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–26389 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 092796D]

Marine Mammals; Scientific Research Permit No. 1016 (P167H)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, CA 92109, has been issued a permit to take (i.e., harass) several species of small cetaceans and pinnipeds for scientific research purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4001).

SUPPLEMENTARY INFORMATION: On July 9, 1996, notice was published in the Federal Register (61 FR 37882) that a request for a scientific research permit to take (i.e., harass) several species of small cetaceans and pinnipeds during experiments to measure their interaction with fishing gear equipped with pingers had been submitted by the above-named organization. Animals would be from stranded rehabilitated or permanently captive stock. The proposed experiments would take place at Sea World parks in California, Texas, Ohio, and Florida, over a 2 1/2 year period. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: October 3, 1996.

Ann D. Terbush

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–26390 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Final Sequestration Report for Fiscal Year 1997 to Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Final Sequestration Report for Fiscal Year 1997 to the House of Representatives, the Senate, and the Office of Management and Budget.

Stanley L. Greigg,

Director, Office of Intergovernmental Relations, Congressional Budget Office.

[FR Doc. 96–26625 Filed 10–11–96; 12:22 pm]

BILLING CODE 9707–02–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Cancer Treatment Clinical Trials

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of extension of demonstration project.

SUMMARY: This notice is to advise interested parties of a one-year extension of a demonstration project in which the DOD provides CHAMPUS reimbursement for eligible beneficiaries who receive cancer treatment under approved National Institutes of Health, National Cancer Institute (NCI) clinical trials. Participation in these clinical trials will improve access to promising cancer therapies for CHAMPUS eligible beneficiaries when their conditions meet protocol eligibility criteria. DOD financing of these procedures will assist in meeting clinical trial goals and arrival at conclusions regarding the safety and efficacy of emerging therapies in the treatment of cancer. At this time, there is insufficient demonstration data for a full evaluation of costs associated with enrollment in clinical trials. Extending the demonstration for an additional year will allow sufficient time for patient accrual to clinical trials and collection of data which allows for comprehensive economic analysis. This demonstration project is under the authority of 10 U.S.C. 1092.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Linda Bynum, (703) 697-4111.

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1996, the Department provided notice in the Federal Register (61 FR 1899) of an expansion of an existing demonstration for breast cancer treatment clinical trials to include all cancer treatment clinical trials under approved National Cancer Institute (NCI) clinical trials. The demonstration purpose is to improve beneficiary access to promising new therapies, assist in meeting the National Cancer Institute's clinical trial goals, and arrival at conclusions regarding the safety and efficacy of emerging therapies in the treatment of cancer. The January 24, 1996, notice anticipated the possibility of extending the demonstration.

The NCI trials program is the principal means by which the oncology community has developed clinical evidence for the efficacy of various treatment approaches in cancer therapy. Participating institutions include NCI's network of comprehensive and clinical cancer centers, university and community hospitals and practices, and military treatment facilities. Despite this extensive network which includes the nation's premier medical centers, cure rates for most types of cancer remain disappointing, highlighting the significant effort still required for improvement. The principal means by which advances in therapy will be realized is through application of research to victims of cancer. In support of NCI's efforts to further the science of cancer treatment, the Department expanded its breast cancer demonstration to include all NCI-sponsored phase II and phase III clinical trials. This expanded demonstration will enhance current NCI efforts to determine safety and efficacy of promising cancer therapies by expanding the patient population available for entry into clinical trials and stabilizing the referral base for these

clinical activities. While this demonstration provides an exception to current CHAMPUS benefit limitations, the Department hypothesizes that this increased access to innovative cancer therapies will occur at a cost comparable to that which the Department has experienced in paying for conventional therapies under the standard CHAMPUS program. Results of this demonstration will provide a framework for determining the scope of DOD's continued participation in the NCI's research efforts.

Dated: October 9, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–26382 Filed 10–15–96; 8:45 am]

BILLING CODE 5000–04–M

Board of Visitors Meeting

AGENCY: Defense Acquisition University.

ACTION: Board of visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Radisson Plaza Hotel, 5000 Seminary Road, Alexandria, Virginia on Wednesday, November 6, 1996 from 0830 until 1600. The purpose of this meeting is to report back to the BoV on continuing questions and discuss DAU privatization issues. The agenda will include continuing discussions concerning acquisition research, development of faculty productivity measures, and developing case studies for incorporation into DAU courses.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: October 9, 1996.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 96–26384 Filed 10–15–96; 8:45 am]

BILLING CODE 5000–04–M

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on November 5, 1996; November 12, 1996; November 19, 1996; and November 26, 1996; at 10:00 a.m. in Room A105, The Nash building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: October 9, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–26383 Filed 10–15–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Availability

SUMMARY: The Department announces the availability of its Final Report on the Section 504 Self-evaluation (Final Report), conducted by the Department of Education under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). The Final Report examines the accessibility of the Department's programs and activities to persons with disabilities.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified person with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity conducted by any Executive agency. The Department of Education published regulations implementing Section 504 in 34 CFR Part 105. Pursuant to 34 CFR 105.10, the Department of Education has conducted a self-evaluation of its current policies and practices, assessing how effectively they meet the requirements of Section 504 and its implementing regulations.

On April 8, 1996, 61 FR 15472, the Department published in the Federal Register a notice soliciting public comments on the draft report of its Section 504 Self-evaluation. The Department received comments from nine commenters, primarily organizations representing or involved with people with disabilities, and those comments and the Department's responses are discussed in Appendix F to the Final Report. The Final Report contains (1) an evaluation of the accessibility of the Department's programs, activities, and facilities to persons with disabilities; (2) recommendations for improving the accessibility of the Department; (3) summaries of the self-evaluations conducted by each Principal Office of the Department; and (4) summaries of the architectural survey of Departmental facilities. The Department has organized two task forces to assist in the implementation of (1) program accessibility, and (2) facility accessibility as proposed by the recommendations of the Final Report.

FOR FURTHER INFORMATION CONTACT: A copy of the Department's Final Report is available in the Department's Public Reading Room located in Room 1333, Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, D.C., between the hours of 10:00 a.m. and 2:00 p.m., Monday through Friday of each week except Federal holidays. A copy of the Final Report may be obtained by writing or calling Eunice Fiorito, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3316, Mary E. Switzer Building, Washington, D.C. 20202–2500. Telephone: (202) 205–8355. FAX: (202) 205–9252. Internet: Eunice__Fiorito@ed.gov Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Copies of the Final Report are available in alternative formats upon request. The Final Report may also be obtained by accessing the Internet Gopher Server (at GOPHER.ED.GOV) and on the World Wide Web (at http://www.ed.gov/pubs/Sec504/).

Dated: October 8, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–26379 Filed 10–15–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health; Continuation of Solicitation for Epidemiology and Other Health Studies Financial Assistance Program (Notice 96–01)

AGENCY: U.S. Department of Energy.

ACTION: Annual notice of continuation of potential availability of grants and cooperative agreements.

SUMMARY: The Office of Health Studies within the Office of Environment, Safety, and Health of the Department of Energy (DOE) announces its continuing interest in applications for grants and cooperative agreements for occupational and environmental health studies of DOE employees and DOE contractors, as well as related DOE international health programs, concerning nuclear weapons research, development, production, use, storage, and dismantling.

DATES: Deadlines for applications or pre-applications will be contained in separate Notices of Availability to be published at a later time in the Federal Register that will address specific program areas to be funded by the Office of Health Studies in fiscal year 1997. All applications accepted under these subsequent notices must be received by the Office of Health Studies on or before September 30, 1997.

ADDRESSES: After the issuance of a Notice of Availability, applicants may obtain additional information from Dr. Paul Seligman, Deputy Assistant Secretary, Office of Health Studies (EH–6), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290; facsimile: 301–903–3445; telephone: 301–903–5926.

SUPPLEMENTARY INFORMATION: A final program rule, which specifies the policies and procedures governing the purpose and scope, program areas, eligibility, application requirements, evaluation criteria, and selection procedures for the Office of Health Studies Financial Assistance Program, was published in the Federal Register (60 FR 5838) on January 31, 1995, effective March 2, 1995. Proposed research applications and pre-applications shall also comply with 10 CFR Part 602.

The three offices within the Office of Health Studies: The Office of International Health Programs, the Office of Occupational Medicine and Medical Surveillance, and the Office of Epidemiologic Studies, promote studies to identify and assess the health risks associated with occupational or environmental exposures to ionizing radiation or toxic chemicals in the following populations: employees of DOE and DOE contractors (particularly those at high risk for exposure to ionizing radiation or toxic chemicals), residents of communities near DOE facilities, and populations throughout the world at high risk for exposure to ionizing radiation or toxic chemicals resulting from accidental exposures or proximity to nuclear or other energy-related facilities. Deliberate exposure of human subjects in ongoing radiation experiments is outside the scope of this announcement. Access and use of information for conducting studies under this notice will comply with the Amendment to the Federal Privacy Act of 1974 regarding Existing Systems of Records, published June 28, 1995, effective August 7, 1995 (60 FR 33510).

For fiscal year 1997, the Office of Health Studies estimates that approximately $4.3 million will be available for grants or cooperative agreements in occupational and environmental health studies. The number of awards made will depend on the number of applications received for which the results of competitive merit review are favorable. Of this total, the Office of International Health Programs anticipates that up to $500,000 will be available to support research to improve understanding of the health effects and health risks resulting from exposure to elevated levels of ionizing radiation in both occupational settings and the general populations. The Office of Occupational Medicine and Medical Surveillance anticipates that approximately $3.7 million will be available for new cooperative agreements and to continue, as necessary, funding for the six cooperative agreements already awarded late in fiscal year 1996 for evaluating the health effects of former DOE workers who may be at significant risk due to exposures to hazardous and/or radioactive substances.

The Office of Epidemiologic Studies does not have funds available to support either new cooperative agreements or new grants during fiscal year 1997 for epidemiologic studies of the DOE workforce or communities near DOE facilities.

Pursuant to a Memorandum of Understanding between DOE and the Department of Health and Human Services (56 FR 9701), published March 7, 1991 (and extended through fiscal year 2000), additional funds to study: (1) Occupational health and safety issues arising from exposures to radiation and toxic chemicals at nuclear and other energy-related facilities, and (2) methodology for risk assessment and epidemiologic research may be available through the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC); see Federal Register Announcement 521 (60 FR 4916), published January 25, 1995, or contact the Associate Director for Energy-Related Health Research, NIOSH, Mail Stop R–44, 4676 Columbia Parkway, Cincinnati, OH 45226; telephone: 513–841–4400.

The National Center for Environmental Health of CDC previously awarded funds for radiation-related research, including dose reconstruction studies, but does not anticipate any additional funds for fiscal year 1997. (For current information contact Dr. James Smith, Chief, Radiation Studies Branch, NCEH, 4770 Buford Highway, NE., Atlanta, GA 30341; telephone: 404–488–7040.)

DOE is under no obligation to pay for any cost associated with the preparation or submission of any application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this notice. Results of studies carried out as grants or cooperative agreements with the Office of Health Studies will be made available to DOE workers, to the public, and to managers responsible for protecting worker health and safety. Data will be made available through DOE's Comprehensive Epidemiologic Data Resource.

Issued in Washington, DC, on October 4, 1996.

Paul J. Seligman,

Deputy Assistant Secretary for Health Studies.

[FR Doc. 96–26420 Filed 10–15–96; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed renewal of form EIA–457A–H, Residential Energy Consumption Survey (RECS).

DATES: Written comments must be submitted on or before December 16, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Michael T. Laurence, Office of Energy Markets and End Use, EI–631, Forrestal

Building, U.S. Department of Energy, Washington, D.C. 20585, telephone (202) 586–2453, or INTERNET address, mlaurenc@eia.doe.gov, or fax 202/586–0018.

FOR FURTHER INFORMATION: Requests for additional information or copies of the forms and instructions should be directed to Michael T. Laurence at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The data collection included, herein, was approved by the Director of the Office of Management and Budget for a one-year extension through June 30, 1997. EIA seeks an extension of this collection by the Director with some modifications under Section 3507(h) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, Title 44 U.S.C. Chapter 35).

The Energy Information Administration, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The RECS is a periodic survey of U.S. households to estimate energy consumption and expenditures and track changes over time. The data are widely used throughout the government and the private sector for policy analysis and are made available to the public in a variety of publications and electronic data files.

II. Current Actions

A three-year extension with changes to an existing collection that expires June 30, 1997, will be submitted to OMB. Due to funding constraints, the RECS, with this effort, will move from a triennial to a quadrennial schedule. Accordingly, the next RECS will be in 1997 and then 2001. The scope and length of the survey is being substantially reduced and Computer-Assisted Personal Interviewing (CAPI) procedures are being introduced which will result in a substantial reduction in respondent burden. Form EIA–457H, Household Lighting Usage Supplement, is being dropped as well as portions of Form EIA–457A, Household Questionnaire, including conservation measures, demand-side management, new home supplement, detailed questions about vehicles, and housing measurements. Some new questions regarding the frequency that appliances are used are being added.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

General Issues

EIA is interested in receiving comments from persons regarding: 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. Practical utility is the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can EIA make to the quality, utility, and clarity of the information to be collected?

As a potential respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can data be submitted in accordance with the due date specified in the instructions?

C. Public reporting burden for this collection is estimated to average 30 minutes for Form EIA–457A, Household Questionnaire; 20 minutes for Form EIA–457B, Mail version of the Household Questionnaire; 15 minutes for Form EIA–457C, Rental Agents, Landlords, and Apartment Managers; 30 minutes for Form EIA–457D, Household Bottle Gas (LPG or Propane) Usage; 30 minutes for Form EIA–457D, Household Bottled Gas (LPG or Propane) Usage; 30 minutes for Form EIA–457E, Household Electricity Usage; 30 minutes for Form EIA–457F, Household Natural Gas Usage; and 30 minutes for Form EIA–457G, Household Fuel Oil or Kerosene Usage. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

Please comment on (1) the accuracy of our estimate and (2) how the agency could minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology.

D. What is the estimated (1) total dollar amount annualized for capital and start-up costs and (2) recurring annual dollar amount of operation and maintenance and purchase of services costs associated with this data collection? The estimates should take into account the costs associated with generating, maintaining, and disclosing or providing the information.

E. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

As a potential user

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. Are there alternate sources of data and do you use them? If so, what are their deficiencies and/or strengths?

D. For the most part, information is published by EIA in U.S. customary units, e.g., cubic feet of natural gas, short tons of coal, and barrels of oil. Would you prefer to see EIA publish more information in metric units, e.g., cubic meters, metric tons, and

kilograms? If yes, please specify what information (e.g., coal production, natural gas consumption, and crude oil imports), the metric unit(s) of measurement preferred, and in which EIA publication(s) you would like to see such information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, October 8, 1996.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 96–26421 Filed 10–15–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP91–103–007]

Alabama-Tennessee Natural Gas Company; Notice of Filing of Tariff Sheet and Refund Report

October 9, 1996.

Take notice that on October 4, 1996, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 4A, superseding Sub. Third Revised Sheet No. 4A. Alabama-Tennessee also filed a report of refunds, pursuant to Article 1, Paragraph 3(c) of the Stipulation and Agreement in Docket No. RP91–103–000, et al., remitted to customers on September 25, 1996.

Alabama-Tennessee states that Fourth Revised Sheet No. 4A reflects the elimination of Take-or-Pay Surcharges pursuant to the Stipulation and Agreement approved by FERC Order dated October 17, 1991. Alabama-Tennessee requests an effective date of September 1, 1996.

Alabama-Tennessee has requested that the Commission grant such waivers as may be necessary to accept and approve the filing as submitted.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before October 16, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26403 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–M

Hydroelectric Applications [The Connecticut Light and Power Company, et al.] Notice of Applications

[Project Nos. P–2576–000, et al.]

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 2576.

c. *Date filed:* August 19, 1996.

d. *Submitted By:* The Connecticut Light and Power Company, current licensee.

e. *Name of Project:* Housatonic River.

f. *Location:* On the Housatonic River, in the Towns of Bridgewater, Brookfield, Kent, Monroe, New Fairfield, New Milford, Newtown, Oxford, Roxbury, Sherman, and Southbury, in the City of Danbury, Litchfield, Fairfield, and New Haven Counties, CT.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* March 1, 1953.

i. *Expiration date of original license:* September 30, 2001.

j. *The project consists of four developments:*

(1) the Bulls Bridge Development, comprising: (a) a 203-foot-long, 24-foot-high concrete gravity-overflow structure known as Bulls Bridge or Main Dam; (b) a 156-foot-long, 17-foot-high rockfill concrete-capped overflow structure having 3-foot-high wooden flashboards and known as Spooner Dam; (c) a reservoir having a 120-acre surface area and a 233-acre-foot useable storage volume at normal pool elevation 354.6 feet m.s.l.; (d) an intake structure and a 2-mile-long canal; (e) a forebay and two (one 13-foot-diameter and one 8-foot-diameter) 420-foot-long penstocks; (f) a powerhouse containing six 1,200-Kw generating units for a total installed capacity of 7,200-Kw; and (g) appurtenant facilities.

(2) the Rocky River Development, comprising: (a) a 952-foot-long, 100-foot-high earth-filled structure having a core wall and known as Guarding Hill or Main Dam; (b) a 2,500-foot-long earthen structure known as Canal or Guarding Hill Dike; (c) four small dike structures; (d) a reservoir having a 5,600-acre surface area and an 8,250-acre-foot useable storage volume at normal pool elevation 428.14 m.s.l. and known as Candlewood Lake; (e) a 3,190-foot-long canal; (f) an intake structure and a concrete/woodstave/riveted steel penstock; (g) a powerhouse containing a 25,000-Kw generating unit and two 3,000-Kw reversible pump/generator units for an installed generating capacity of 31,000-Kw; and (h) appurtenant facilities.

(3) the Shepaug Development, comprising: (a) a 1,412-foot-long, 147-foot-high concrete gravity-type structure known as Shepaug Dam; (b) a reservoir having a 1,870-acre surface area and a 5,400-acre-foot useable storage volume at normal pool elevation 198.28 feet m.s.l. and known as Lake Lillinonah; (c) an intake structure and a 25-foot-diameter penstock; (d) a powerhouse containing a 37,200-Kw generating unit; and (e) appurtenant facilities.

(4) the Stevenson Development, comprising: (a) a 1,250-foot-long, 124-foot-high concrete gravity-type structure having a 520-foot-long spillway surmounted by 3-foot-high wooden flashboards and known as Stevenson Dam; (b) a reservoir having a 1,063-acre surface area and a 5,038-acre-foot useable storage volume at normal pool elevation 101.3 feet m.s.l. and known as Lake Zoar; (c) an intake structure and four 12-foot-square penstocks; (d) a powerhouse containing an 8,000-Kw generating unit and three 7,500-Kw generating units for a total installed capacity of 30,500 Kw; and (e) appurtenant facilities;

The project has a total installed capacity of 105,900-Kw.

k. Pursuant to 18 CFR 16.7, information on the project is available at: The Connecticut Light and Power Company, 41 Park Lane Road, New Milford, CT 06776, (860) 355–6527.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1999.

2a. *Type of filing:* Notice of Intent To File an Application for a New License.

b. *Project No.:* 2597.

c. *Date filed:* August 21, 1996.

d. *Submitted By:* The Connecticut Light and Power Company, current licensee.

e. *Name of Project:* Falls Village.

f. *Location:* On the Housatonic River, in the Towns of Canaan, North Canaan, and Salisbury, Litchfield County, Connecticut.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations

h. *Effective date of original license:* April 1, 1962.

i. *Expiration date of original license:* August 31, 2001.

j. *The project consists of:* (1) a 14-foot-high, 300-foot-long concrete, ogee-shaped dam; (2) a reservoir having a 150-acre surface area and a 640-acre-foot useable storage volume at normal pool elevation 633.19 feet U.S.G.S.; (3) a gated intake structure and a 1,930-foot-long concrete-lined canal; (4) an intake structure and five (three 9-foot-diameter and two 2-foot-diameter) 300-foot-long penstocks; (5) a powerhouse containing three 3,000-Kw generating units for an installed generating capacity of 9,000-Kw; and (6) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: The Connecticut Light and Power Company, 41 Park Lane Road, New Milford, CT 06776, (860) 355–6527.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 1999.

3a. *Type of Application:* Partial Transfer of License.

b. *Project No.:* 2670–013.

c. *Date filed:* August 15, 1996.

d. *Applicants:* Northern States Power Company and the City of Eau Claire, Wisconsin.

e. *Name of Project:* Dells.

f. *Location:* On the Chippewa River, near the city of Eau Claire in Chippewa and Eau Claire Counties, Wisconsin.

g. *File Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicants Contact:* John P. Moore, Jr., General Counsel, Northern States Power Company, P.O. Box 8, Eau Claire, Wisconsin 54702–0008, (715) 839–2427.

i. *FERC Contact:* Thomas F. Papsidero (202) 219–2715.

j. *Comment Date:* November 14, 1996.

k. *Description of Filing:* Application to transfer Northern States Power Company's (NSPC) co-licensee authorization for the Dells Project to Wisconsin Electric Power Company (WEPC). NSPC proposes to merge into WEPC, as part of a comprehensive merger currently pending before the Commission in Docket No. EC95–16–000 (60 Federal Register 37,430 (July 20, 1995)).

l. This notice also consists of the following standard paragraphs: B, C2 & D2.

4a. *Type of Application:* Transfer of License.

b. *Project No:* 2611–026.

c. *Date Filed:* August 14, 1996.

d. *Applicant:* Scott Paper Company and UAH-Hydro Kennebec Limited Partnership.

e. *Name of Project:* Hydro-Kennebec Project.

f. *Location:* Kennebec River in Kennebec County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)– 825(r).

h. *Applicant Contacts:*

Nancy J. Skancke, Grammer, Kissel, Robbins & Skancke, 1225 Eye St., N.W., Suite 1225, Washington, DC 20005, (202) 408–5400.

Howard Sharfstein, Esq., Kimberly-Clark Corporation, 1400 Holcomb Bridge Rd., Roswell, GA 30076, (770) 587–8618.

i. *FERC Contact:* David Cagnon, (202) 219–2693.

j. *Comment Date:* November 14, 1996.

k. *Description of Transfer:* The co-licensees advise that Scott Paper Company (Scott) was merged into Kimberly-Clark Corporation (KCC), effective December 15, 1995. KCC then placed the assets and liabilities acquired from Scott in Kimberly-Clark Tissue Company (KCT). The proceeding will address the transfer of Scott's co-licensee authorization to KCT. UAH-Hydro Kennebec Limited Partnership has been the operator of the project since 1987, and remains a co-licensee.

l. This notice also consists of the following standard paragraphs: B, C2, and D2.

5a. *Application Type:* Transfers of License.

b. *Project Numbers:* P–1982, 2181, 2390, 2417, 2440, 2444, 2475, 2491, 2567, 2587, 2610, 2639, 2697, 2711.

c. *Applicants:* Northern States Power Company (Wisconsin) Wisconsin Electric Power Company.

d. *Name and Location of Projects:*

Project no.	Project name	River	County	State
1982	Holcombe	Chippewa	Chippewa	Wisconsin.
2440	Chippewa Falls	Chippewa	Chippewa	Wisconsin.
2491	Jim Falls	Chippewa	Chippewa	Wisconsin.
2567	Wissota	Chippewa	Chippewa	Wisconsin.
2639	Cornell	Chippewa	Chippewa	Wisconsin.
2417	Hayward	Namekagon	Sawyer	Wisconsin.
2711	Trego	Namekagon	Washburn	Wisconsin.
2390	Big Falls	Flambeau	Rusk	Wisconsin.
2475	Thornapple	Flambeau	Rusk	Wisconsin.
2181	Menomonie	Red Cedar	Dunn	Wisconsin.
2697	Cedar Falls	Red Cedar	Dunn	Wisconsin.
2444	White River	White	Ashland	Wisconsin.
2587	Superior Falls	Montreal	Iron and Gogebic	Wisconsin, Michigan.
2610	Saxon Falls	Montreal	Gogebic	Michigan

e. *Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)- 825(r).

f. *Applicant Contacts:*

John P. Moore, Jr., General Counsel, Northern States Power Company —(Wisconsin),P.O. Box 8, Eau Claire, WI 54702–0008, (715) 839–2424.

Walter T. Woelfle, Director, Legal Services Department, Wisconsin Electric Power Company, 231 West Michigan Avenue, Milwaukee, WI 53201–2046, (414) 221–2765

William J. Madden, Jr., Attorney for Transferor and Transferee Winston & Strawn, 1400 L Street, N.W.,

Washington, DC 20005–3502, (202) 371–5700.

g. *FERC Contact:* Dean C. Wight, (202) 219–2675.

h. *Comment Date:* November 18, 1996.

i. *Description of Proposed Action:* Applicants propose to transfer the projects from Northern States Power Company (Wisconsin) (Transferor), to Wisconsin Electric Power Company (Transferee), as part of a proposed merger involving Transferor and Transferee. See j., Related Actions, below.

j. *Related Actions:* (1) Approval of a merger which would include the Transferee and Transferor is pending before the Commission. *Wisconsin Electric Power Company, Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin), and Cenerprise, Inc.,* Docket No. EC95–16–000 (60 Fed. Reg. 37430 (July 20, 1995)). Under the merger, Wisconsin Electric Power Company would become one of two operating utility subsidiaries of Wisconsin Energy Corporation (which would be renamed Primergy).

(2) Applications for new licenses, filed by Transferor, are pending before the Commission for Project Nos. 1982 and 2390. An application for subsequent license, filed by Transferor, for project no. 2475 is also pending before the Commission. Transferee and Transferor request that Transferee be substituted for Transferor as applicant in all three proceedings contingent and effective upon consummation of the merger.

k. This notice also consists of the following standard paragraphs: B, C2, and D2.

6a. *Type of Application:* Minor New License (Notice of Tendering).

b. *Project No.:* 2032–001.

c. *Date filed:* September 25, 1996.

d. *Applicant:* Lower Valley Power & Light, Inc.

e. *Name of Project:* Strawberry.

f. *Location:* On the Strawberry Creek, in Lincoln County, Wyoming.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Winston G. Allred, Lower Valley Power & Light, Inc., 345 North Washington Street, P.O. Box 188, Ofton, WY 83110, (307) 886–3175.

i. *FERC Contact:* Héctor M. Pérez, (202) 219–2843.

j. *Brief Description of Project:* The project consists of: (1) a 22-foot-high, 110-foot-long reinforced concrete gravity dam with a 24-foot-long right abutment, a 40-foot-long overflow spillway with a crest elevation of 7,020 feet NGVD, a 16-foot-long intake sluice section, and a 30-foot-long left abutment; (2) a reservoir with a surface area of 2.8 acres at normal pool elevation of 7,021 feet; (3) an 11,300-foot-long, 36-inch-diameter steel penstock; (4) a powerhouse with three turbine-generator units with a total installed capacity of 1,500 kilowatts; (5) a substation; and other appurtenances.

k. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR at § 800.4.

l. In accordance with section 4.32(b)(7) of the Commission's regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate, factual basis for a complete analysis of this application on its merits, they must file a request for the study with the Commission, together with justification for such request, not later than 60 days from the filing date and serve a copy of the request on the Applicant.

7a. *Application Type:* Transfer of License.

b. *Project Numbers:* P–2056.

c. *Applicants:* Northern States Power Company (Minnesota), Northern Power Wisconsin Corporation.

d. *Name of Project:* St. Anthony Falls.

e. *Location:* Mississippi River, Hennepin County, Minnesota.

f. *Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant Contacts:*

David Lawrence, Assistant General Counsel, Northern States Power Company (Minnesota), 414 Nicollet Mall, Minneapolis, MN 55401, (612) 330–5621.

William J. Madden, Jr., Attorney for Transferor and Transferee, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005–3502, (202–371–5700.

h. *FERC Contact:* Dean C. Wight, (202) 219–2675.

i. *Comment Date:* November 20, 1996.

j. *Description of Proposed Action:* Applicants propose to transfer the projects from Northern States Power Company (Minnesota) (Transferor), to Northern Power Wisconsin Corporation (Transferee), as part of a proposed merger involving Transferor and Transferee. See k., Related Action, below.

k. *Related Action:* Approval of a merger which would include the Transferee and Transferor is pending before the Commission. *Wisconsin Electric Power Company, Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin), and Cenerprise, Inc.,* Docket No. EC95–16–000 (60 Fed. Reg. 37430 (July 20, 1995)). Under the merger, Northern Power Wisconsin Corporation would become one of two operating utility subsidiaries of Wisconsin Energy Corporation (which would be renamed Primergy).

l. This notice also consists of the following standard paragraphs: B, C2, and D2.

8a. *Type of Application:* Declaration of Intention.

b. *Docket No.* DI96–12.

c. *Date Filed:* September 30, 1996.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Flint River Project.

f. *Location:* On the Flint River and Muckafoonee Creek about 2 miles above Albany, in Dougherty and Lee Counties, Georgia.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* John R. Molm, Counsel for Georgia Power Company, Troutman Sanders, LLP, 1300 I Street, NW., Suite 500 East, Washington, D.C. 20005, (202) 274–2950.

i. *FERC Contact:* Diane M. Murray, (202) 219–2682.

j. *Comment Date:* November 25, 1996.

k. *Description of Project:* The project consists of: (1) a 1,400 acre-foot reservoir; (2) a 464-foot-long dam; (3) a powerhouse with an installed capacity of 5,400 kW; and (4) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* The project is operated during normal flows as a run-of-river plant and supplies a part of the base load of Georgia Power's system.

m. This notice also consists of the following standard paragraphs: B, C1, and D2.

9a. *Type of filing:* Notice of Intent To File Application for New License.

b. *Project No.:* 2652.

c. *Date filed:* August 29, 1996.

d. *Submitted By:* PacifiCorp, current licensee.

e. *Name of Project:* Bigfork.

f. *Location:* On the Swan River in Flathead County, Montana.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* October 1, 1949.

i. *Expiration date of original license:* August 31, 2001.

j. *The project consists of:* (1) a 300-foot-long and 12-foot-high concrete diversion dam; (2) a reservoir with storage capacity of 109 acre-feet at a water surface elevation of 3,007.95 feet mean sea level; (3) an intake structure; (4) a one-mile-long flowline; (5) two 72-inch-diameter, 160-foot-long and one 54-inch-diameter, 160-foot-long steel penstocks; (6) a powerhouse containing two 1,700-kilowatt and one 750-kilowatt turbine-generator units; and (7) appurtenant facilities.

k. *Pursuant to 18 CFR 16.7, information on the project is available at:* PacifiCorp, 920 SW 6th Avenue, Portland, OR 97204, Phone: (503) 464–5343.

l. *FERC contact:* Hector M. Perez (202) 219–2843.

m. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 1999.

10a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11591–000.

c. *Date filed:* August 20, 1996.

d. *Applicant:* City of Wrangell, Alaska.

e. *Name of Project:* Sunrise Lake Water and Hydroelectric Power Project.

f. *Location:* Within Tongass National Forest, on Woronkofski Island, near the city of Wrangell, Alaska. Sections 4, 5, 6, 7, 8, 16, 17, 20, and 21 in T. 63 S., R. 83 E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Scott Seabury, City Manager, City of Wrangell, Alaska, P.O. Box 531, Wrangell, Alaska 99929, (907) 874–2381.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* December 18, 1996.

k. *Description of Project:* The applicant is exploring two project options. The first option would consist of: (1) a siphon intake at the outlet of Sunrise Lake; (2) a 20-inch-diameter, 2-mile-long penstock; (3) a powerhouse near Woronkofski Point with a generating capacity of 1.5 MW; (4) a 100-foot-long transmission line interconnecting with an existing Tyee Lake Project transmission line; (5) a 6-mile-long water distribution pipe extending from the powerhouse to the city of Wrangell; and (6) appurtenant facilities.

The second option would consist of: (1) a siphon intake at the outlet of Sunrise Lake; (2) a 20-inch-diameter, 2-mile-long penstock; (3) a powerhouse just south of Wedge Point with a generating capacity of 1.5 MW; (4) a 10,000-foot-long transmission line interconnecting with an existing Tyee Lake Project transmission line; (5) a 6-mile-long water distribution pipe extending from the powerhouse to the city of Wrangell and (6) appurtenant facilities.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

11a. *Type of Filing:* Requests for Extensions of Time to Commence Project Construction.

b. *Applicant :* The City of New Martinsville, West Virginia.

c. *Project No.:* The proposed New Cumberland Hydroelectric Project, FERC No. 6901–042, is to be located at the United States Army Corps of Engineers' New Cumberland Locks and Dam on the Ohio River, in Hancock County, West Virginia, and Jefferson County, Ohio.

d. *Project No.:* The proposed Willow Island Hydroelectric Project, FERC No. 6902–055, is to be located on the Ohio River in Pleasants County, West Virginia and Washington County, Ohio.

e. *Date Filed:* August 30, 1996.

f. *Pursuant to:* Section 1 of Public Law 104–173.

g. *Applicant Contact:* Ms. Amy S. Koch, McKenna LLP, 1800 M Street, N.W., Suite 600 South Lobby, Washington, D.C. 20036, (202) 466–9270.

h. *FERC Contact:* Mr. Lynn R. Miles, (202) 219–2671.

i. *Comment Date:* November 25, 1996.

j. *Description of the Requests:* The City of New Martinsville requests that the exiting deadline for the commencement of construction on FERC Project Nos. 6901 and 6902 be extended to October 3, 1999. The licensee also requests that the concurrent pre-construction deadlines be adjusted to reflect the new commencement of construction deadline.

k. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: October 8, 1996, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26428 Filed 10–15–96; 8:45 am]

BILLING CODE 6712–01–P

[Docket No. RP97–26–000]

Decatur Utilities, City of Decatur, Alabama v. Alabama-Tennessee Natural Gas Company; Notice of Complaint

October 9, 1996.

Take notice that on October 4, 1996, Decatur Utilities, City of Decatur, Alabama (Decatur) tendered for filing a complaint against Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) and a Motion for Expedited Injunctive Relief pursuant to Section 5 of the Natural Gas Act and Rules 206 and 212 of the Commission's Rules of Practice and Procedure.

Decatur, a local distribution company customer of Alabama-Tennessee, asks that the Commission enjoin Alabama-Tennessee's premature application of the right of the first refusal (ROFR) provision of its tariff, to the irreparable harm of Decatur. Decatur states that on September 27, 1996, Alabama-Tennessee posted on its Electronic Bulletin Board for bidding the firm capacity under Decatur's four firm transportation contracts that expire over one year from now on November 1, 1997. The posting stated that the bidding period would end October 14, 1996, thereby triggering the 25-business day ROFR process under Alabama-Tennessee's tariff.

Decatur states that since its firm transportation contracts with Alabama-Tennessee do not expire until November 1, 1997, Alabama-Tennessee's attempt to trigger the ROFR process by putting Deactur's capacity up for bid now would require Decatur to have to exercise its ROFR nearly a year prior to its contract's expiration.

Decatur states that Alabama-Tennessee's actions are a clear violation of its tariff.

Decatur requests the Commission to: (i) Enjoin Alabama-Tennessee's premature application of the ROFR provision of its tariff with regard to Decatur's firm capacity; (ii) conclude that Alabama-Tennessee's attempt to force Decatur to exercise its right of first refusal more than a year before Decatur's contract with Alabama-Tennessee expires is contrary to Order No. 636 and FERC policy, and unlawful under Alabama-Tennessee's FERC-approved tariff; and (iii) order that Decatur is not required to exercise its ROFR to retain its firm capacity on Alabama-Tennessee any earlier than approximately 131 days prior to the expiration date of the underlying service agreement as defined in the schedule for the ROFR process in Alabama-Tennessee's tariff.

Due to the time-sensitive nature of the conduct complained, Decatur urgently requests the Commission's expedited review of this complaint. Alabama-Tennessee has set October 14, 1996 as the end of the bidding period on Decatur's capacity. Under the tariff, Decatur would then have 25 business days in which to decide whether to exercise its ROFR, or until November 20, 1996.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before October 21, 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. Answers to this complaint

shall be due on or before October 21, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26404 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–25–002]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 9, 1996.

Take notice that on October 4, 1996, Mississippi River Transmission Corporation (MRT) tendered for filing to become part of its FERC Gas Tariff Third Revised Volume No. 1, Tenth Revised Sheet No. 10, with an effective date of October 1, 1996.

MRT states that the purpose of the instant filing is to correct tariff pagination as required by the Commission in its order dated September 27, 1996.

Any person desiring to protest the subject filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commissions Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26405 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP88–391–020 and RP93–162–005]

Transcontinental Gas Pipe Line Corporation; Notice of Annual Cash-Out Reporting

October 9, 1996.

Take notice that on September 27, 1996, Transcontinental Gas Pipe Line Corporation (Transco) filed its report of cash-out purchases for the annual period August 1, 1995 through July 31, 1996. The report was filed to comply with the cash-out provisions in Section 15 of the General Terms and Conditions of Transco's FERC Gas Tariff.

Pursuant to the requirements of the Commission's order issued December 3, 1993 in Docket No. RP93–162–002, Transco also submitted a summary of activity showing the volumes and amounts paid under each Pipeline Interconnect Balancing Agreement during the aforementioned period.

Transco states that the report shows that for the annual period ended July 31, 1996, Transco had a net overrecovery of $1,812,801. Transco has carried forward a net underrecovery of $3,081,390 for the twelve month period ending July 31, 1995. This results in a cashout balance at July 31, 1996 of a net underrecovery of $1,268,589. Transco states in accordance with Section 15 it will carry forward such net underrecovery to offset any net overrecovery that may occur in future cash-out periods.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before October 16, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Louis D. Cashell,

Secretary.

[FR Doc. 96–26400 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10855–002–MI]

Upper Peninsula Power Company; Notice of Site Visits and Public Scoping Meetings

October 9, 1996.

The Federal Energy Regulatory Commission (Commission) is reviewing an application for license for the existing unlicensed Dead River Project on the Dead River, Michigan.

The purpose of the scoping process is to identify significant issues related to the proposed action and the continued operation of hydropower projects in the basin and to determine what issues should be covered in the environmental document. The document entitled ''Scoping Document I'' is being circulated to enable appropriate federal, state, and local resource agencies, developers, Indian tribes, non-governmental organizations, and other interested parties to effectively participate in and contribute to the scoping process. This scoping document provides a brief description of the proposed actions, the potential alternatives, the geographic and temporal scope of a cumulative effects analysis, and a preliminary schedule for preparing the environmental document.

The staff's environmental document will consider both site specific and cumulative environmental effects of the proposed actions and reasonable alternatives, and will include an economic, financial and engineering analysis. A draft environmental document will be issued and circulated for review by all interested parties. All comments filed on the draft environmental document will be analyzed by the Commission staff and considered in a final environmental document.

Project Site Visit

The applicant and Commission staff will conduct a project site visit of the Dead River Project. The site visit will start at 9:00 a.m. on October 29, 1996. All interested individuals, organizations, and agencies are invited to attend. All participants are responsible for their own transportation to the starting point. For more details, interested parties should contact Mr. Max Curtis at (906) 487–5063 or Charlie Streicher at (906) 487–5062 prior to the site visit date.

Scoping Meetings

The Commission staff will conduct one evening scoping meeting and one morning scoping meeting. All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of environmental issues that should be analyzed in the environmental document.

The evening meeting will be held on October 29, 1996, from 7:00 p.m. to 10:00 p.m. at Don H. Bottum University Center, 540 West K Avenue, Marquette, MI, in the Ontario Room, on the Campus of Northern Michigan University.

The morning agency meeting will be held on October 30, 1996, from 9:00 a.m. to 12:00 p.m. at Don H. Bottum University Center, 540 West K Avenue, Marquette, MI, in the Ontario Room, on the Campus of Northern Michigan University.

Objectives

At the scoping meetings, the Commission staff will: (1) Summarize the environmental issues tentatively identified for analysis in the environmental document; (2) solicit from the meeting participants all available information, especially quantified data, on the resources at issue, and (3) encourage statements from experts and the public on issues that

should be analyzed in the environmental document.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the environmental document.

Meeting Procedures

The meetings will be recorded by a stenographer and, thereby, will become a part of the formal record of the Commission proceeding on the Dead River Project under consideration. Individuals presenting statements at the meetings will be asked to identify themselves for the record.

Concerned parties are encouraged to offer us verbal guidance during public meetings. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

Persons choosing not to speak but wishing to express an opinion, as well as speakers unable to summarize their positions within their allotted time, may submit written statements for inclusion in the public record.

Written scoping comments may also be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, until December 2, 1996. All filings should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 C.F.R. 4.34(h).

All correspondence should clearly show the following captions on the first page: Dead River Project, FERC No. 10855.

All those attending the meeting are urged to refrain from making any communications concerning the merits of the application to any member of the Commission staff outside of the established process for developing the record as stated into the record of the proceeding.

Further, interested persons are reminded of the Commission's Rules of Practice and Procedures, requiring parties or interceders (as defined in 18 CFR 385.2010) to file documents on each person whose name is on the official service list for this proceeding. See 18 CFR 4.23(b).

For further information, please contact Robert Bell, Federal Energy Regulatory Commission, Office of Hydropower Licensing, 888 First Street, NE, Washington, DC, 20426 (Telephone 202 219–2806), Lee Emery (Telephone 202 219–2779), or Pete Leitzke (Telephone 202 219–2803.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26402 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–14–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

October 9, 1996.

Take notice that on October 4, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP97–14–000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to abandon by reclaim the Western Resources, Inc. Jewell town border setting and a high pressure regulator setting, and to relocate and construct a replacement town border setting, all located in Jewell County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to replace the Jewell town border setting with a skid-mounted positive displacement meter setting with two self-operated pressure regulator cuts. The new facilities will be located across the road from the existing site at the high pressure regulator location in Jewell County, Kansas. The facilities are being relocated due to space limitation and site stability at the present site.

WNG states that the projected volume of delivery will remain unchanged; the most recent annual volume through the Jewell town border setting was 109,500 Dth with a peak day volume of 359 Dth. WGN estimates the construction cost to be $21,679 and the reclaim cost to be $3,285.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26401 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EF97–1011–000, et al.]

Alaska Power Administration, et al.; Electric Rate and Corporate Regulation Filings

October 8, 1996.

Take notice that the following filings have been made with the Commission:

1. Alaska Power Administration

[Docket No. EF97–1011–000]

Take notice that on October 1, 1996, the Deputy Secretary of the Department of Energy, by Rate Order No. APA–12, confirmed and approved on an interim basis effective October 1, 1996, Rate Schedules A–F11, A–N12, and A–W3 applicable to power from and wheeling by Alaska Power Administration's (AP) Eklutna Project. The rate schedules which are being adjusted were previously confirmed and approved by FERC on February 2, 1995, for a period of five years, Docket No. EF94–1011–000.

Current rates in effect are 18.7 mills per kilowatt-hour for firm energy; 10 mills per kilowatt-hour for non-firm energy; and 3 mills per kilowatt-hour for wheeling. APA proposes to decrease the rate for firm energy to 8.8 mills per kilowatt-hour, a decrease of 53 percent. Rates for non-firm energy would be decreased to 8.8 mills per kilowatt-hour, and wheeling would remain the same.

The Department requests the approval of the Commission of the adjusted rates for a period not to exceed five years with the understanding that the rates can be adjusted at an earlier date if needed to comply with the cost recovery criteria. The rate schedules are submitted for confirmation and approval on a final basis pursuant to authority vested in the Commission by Amendment No. 3 to Delegation Order No. 0204–108.

Comment date: October 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Chicago Energy Exchange of Chicago; Gulfstream Energy, LLC; Citizens Lehman Power Sales; KCS Power Marketing, Inc.

[Docket Nos. ER90–225–025, ER94–1597–008, ER94–1685–009, ER95–208–007 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On September 23, 1996, Chicago Energy Exchange of Chicago filed certain information as required by the Commission's April 19, 1990, order in Docket No. ER90–225–000.

On October 4, 1996, Gulfstream Energy, LLC filed certain information as required by the Commission's November 21, 1994, order in Docket No. ER94–1597–000.

On October 3, 1996, Citizens Lehman Power Sales filed certain information as required by the Commission's February 2, 1995, order in Docket No. ER94–1685–000.

On October 1, 1996, KCS Power Marketing, Inc. filed certain information as required by the Commission's March 2, 1995, order in Docket No. ER95–208–000.

3. Southwest Regional Transmission

[Docket No. ER94–1381–003]

Take notice that on October 2, 1996, Southwest Regional Transmission Association on behalf of its Members, submitted for filing the signature pages of new Members and a list of all its Members by Member Class designation.

Comment date: October 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Northwest Regional Transmission Association

[Docket No. ER95–19–006]

Take notice that on October 1, 1996, Northwest Regional Transmission Association tendered for filing additional Member Signature Pages for the Northwest Regional Transmission Association Governing Agreement.

Comment date: October 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Central Vermont Public Service Corporation

[Docket No. ER96–2256–001]

Take notice that on September 23, 1996, Central Vermont Public Service Corporation tendered for filing its refund report in the above-referenced docket.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Delmarva Power & Light Company

[Docket No. ER96–2571–001]

Take notice that on October 4, 1996, Delmarva Power & Light Company tendered for filing a revised Market Rate Sales Tariff and Code of Conduct in compliance with the Commission's order of September 26, 1996 in the captioned docket.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER96–2619–000]

Take notice that on October 4, 1996, Niagara Mohawk Power Corporation (NMPC) tendered for filing an Amendment No. 1 to the Service Agreement between NMPC and Public Service Electric and Gas Company (PSE&G). The Amendment unbundles this power sales agreement by reducing the NMPC Sales Tariff ceiling rates by the applicable transmission rates.

NMPC requests an effective date of July 22, 1996. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC will serve copies of the filing upon the New York State Public Service Commission and PSE&G.

Comment date: October 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Citizens Utilities Company

[Docket No. ER96–2703–000]

Take notice that on September 27, 1996, Citizens Utilities Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER96–2705–000]

Take notice that on October 3, 1996, Entergy Services, Inc. (Entergy Services) tendered for filing an amendment to its August 13, 1996, filing of the Transmission and Distribution Operating Agreement between Arkansas Electric Cooperative Corporation and Energy Arkansas, Inc.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Citizens Utilities Company

[Docket No. ER96–2707–000]

Take notice that on September 27, 1996, Citizens Utilities Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER96–2875–000]

Take notice that PacifiCorp on October 3, 1996, tendered for filing an amendment to its filing in this docket.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. US Energy, Inc.

[Docket No. ER96–2879–000]

Take notice that on October 2, 1996, US Energy, Inc. tendered for filing an amendment to its September 3, 1996, filing in the above-referenced docket.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Russell Energy Sales Company

[Docket No. ER96–2882–000]

Take notice that on October 3, 1996, Russell Energy Sales Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER96–2885–000]

Take notice that on October 4, 1996, Niagara Mohawk Power Corporation (NMPC) tendered for filing an Amendment No. 1 to the Service Agreement between NMPC and VTEC Energy Inc. (VTEC). The Amendment unbundles this power sales agreement by reducing the NMPC Sales Tariff ceiling rates by the applicable transmission rates.

NMPC requests an effective date of August 22, 1996. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC will serve copies of the filing upon the New York State Public Service Commission and VTEC.

Comment date: October 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER96–2889–000]

Take notice that on October 4, 1996, Niagara Mohawk Power Corporation

(NMPC) tendered for filing an Amendment No. 1 to the Service Agreement between NMPC and USGen Power Services L.P. (USGen). The Amendment unbundles this power sales agreement by reducing the NMPC Sales Tariff ceiling rates by the applicable transmission rates.

NMPC requests an effective date of August 16, 1996. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC will serve copies of the filing upon the New York State Public Service Commission and USGen.

Comment date: October 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. NGST Energy Services

[Docket No. ER96–2892–000]

Take notice that on October 7, 1996, NGST Energy Services tendered for filing an amendment in the above-referenced docket.

Comment date: October 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. CNG Energy Services Corporation

[Docket No. ER96–3068–000]

Take notice that on October 2, 1996, CNG Energy Services Corporation (CNGESC) supplemented its September 20, 1996, petition seeking authority to sell electricity at market-based rates. The Supplemental material included clarifications sought by the Commission Staff.

Comment date: October 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26406 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–3120–000, et al.]

Kentucky Utilities Company, et al.; Electric Rate and Corporate Regulation Filings

October 7, 1996.

Take notice that the following filings have been made with the Commission:

1. Kentucky Utilities Company

[Docket No. ER96–3120–000]

Take notice that on September 27, 1996, Kentucky Utilities Company (KU), tendered for filing non-firm transmission service agreements with PacifiCorp Power Marketing, Inc., Jacksonville Electric Authority, PanEnergy Power Services, Inc., Virginia Electric and Power Company and Southern Energy Marketing, Inc. under its Transmission Services (TS) Tariffs.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Kentucky Utilities Company

[Docket No. ER96–3121–000]

Take notice that on September 27, 1996, Kentucky Utilities Company (KU), tendered for filing service agreements with PacifiCorp Marketing, Inc., PanEnergy Power Services, Inc., Jacksonville Electric Authority and Southern Energy Marketing, Inc. under its Power Services (PS) Tariff.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Delmarva Power & Light Company

[Docket No. ER96–3122–000]

Take notice that on September 27, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Duke/Louis Dreyfus pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of September 18, 1996, the date on which it was executed.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Delmarva Power & Light Company

[Docket No. ER96–3123–000]

Take notice that on September 27, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for firm point-to-point transmission service from October 1, 1996, through December 31, 1996, to the City of Dover pursuant to Delmarva's open access transmission tariff.

Delmarva states that copies of the filing were provided to the City of Dover and its agent, Duke/Louis Dreyfus.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Delmarva Power & Light Company

[Docket No. ER96–3124–000]

Take notice that on September 27, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Western Power Systems, Inc., pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of September 9, 1996, the date on which it was executed.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER96–3126–000]

Take notice that on September 30, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Public Service Company

[Docket No. ER96–3127–000]

Take notice that on September 30, 1996, Central Illinois Public Service Company (CIPS), submitted for filing a service agreement, dated September 23, 1996, establishing Western Power Services, Inc. (Western) as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of September 23, 1996 for the service agreement. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Western and the Illinois Commerce Commission.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Central Illinois Public Service Company

[Docket No. ER96–3128–000]

Take notice that on September 30, 1996, Central Illinois Public Service Company (CIPS), submitted for filing three executed service agreements,

dated September 20, 1996, establishing PanEnergy Power Services, Inc. (PanEnergy), TransCanada Power Corp. (TransCanada), and Williams Energy Services Company (Williams) as customers under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of September 20, 1996 for the service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon PanEnergy, TransCanada and Williams and the Illinois Commerce Commission.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER96–3129–000]

Take notice that on September 30, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Rainbow Energy Marketing Corporation will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 24, 1996.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER96–3130–000]

Take notice that on September 30, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which MidAmerican Energy Company 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 October 1, 1996.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Illinois Power Company

[Docket No. ER96–3131–000]

Take notice that on September 30, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Federal Energy Sales Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1996.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Tampa Electric Company

[Docket No. ER96–3132–000]

Take notice that on September 30, 1996, Tampa Electric Company (Tampa Electric), tendered for filing amendments to interchange agreements with the Florida Municipal Power Agency, the Kissimmee Utility Authority, and the Orlando Utilities Commission, in order to reflect the establishment of direct interconnections between the electric systems of Tampa Electric and these entities.

Tampa Electric proposes an effective date of March 13, 1996, for the amendments, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on the other parties to the interchange agreements and the Florida Public Service Commission.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Oklahoma Gas and Electric Company

[Docket No. ER96–3133–000]

Take notice that on September 30, 1996, Oklahoma Gas and Electric Company (OG&E), tendered for filing an Extension of Settlement Agreement with Arkansas Valley Electric Cooperative Corporation (AVEC) under which OG&E would continue to supply electric service to AVEC under the Company's Rate Schedule WC–1. OG&E has also filed revised electric service agreements applicable to AVEC.

Copies of this filing have been served on each cooperative to whom the Company supplies wholesale electric service, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Pennsylvania Power & Light Company

[Docket No. ER96–3134–000]

Take notice that on September 30, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement, dated September 30, 1996, with Aquila Power Corporation (Aquila) for non-firm point-to-point transmission service under PP&L's Open Access Transmission Tariff. The Service Agreement adds Aquila as an eligible customer under the Tariff.

PP&L requests an effective date of September 1, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Aquila and to the Pennsylvania Public Utility Commission.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Pennsylvania Power & Light Company

[Docket No. ER96–3135–000]

Take notice that on September 30, 1996, Pennsylvania Power & Light Company (FP&L) filed a Service Agreement, dated September 26, 1996, with Enron Power Marketing, Inc. (Enron) for non-firm point-to-point transmission service under FP&L's Open Access Transmission Tariff. The Service Agreement adds Enron as an eligible customer under the Tariff.

FP&L requests an effective date of September 3, 1996, for the Service Agreement.

FP&L states that copies of this filing have been supplied to Enron and to the Pennsylvania Public Utility Commission.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power & Light Company

[Docket No. ER96–3136–000]

Take notice that on September 30, 1996, Florida Power & Light Company (FPL), tendered for filing a proposed Service Agreement with PECO Energy Company-Power Team for non-firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement be permitted to become effective on September 1, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power & Light Company

[Docket No. ER96–3137–000]

Take notice that on September 30, 1996, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Engelhard Power Marketing, Inc. for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on August 31, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: October 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26399 Filed 10–15–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of April 15 Through April 19, 1996

During the week of April 15 through April 19, 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.

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: October 7, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 968

Personnel Securing Hearings

Headquarters, 4/18/96, VSO–0075

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. The Hearing Officer found that: (i) The individual submitted several altered documents to the U.S. Army and provided false information to the DOE in a Personnel Security Interview; (ii) the acts of the individual tend to show that the individual is not honest, reliable, or trustworthy; (iii) the DOE's security concerns regarding these behaviors were not overcome by evidence mitigating the derogatory information underlying the DOE's charges. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

Oak Ridge Operations Office, 4/15/96, VSO–0065

A Hearing Officer recommended that access authorization not be restored to an employee whose access was suspended due to evidence of marijuana use. The Hearing Officer found that the employee had not presented sufficient evidence of rehabilitation to mitigate valid security concerns.

Supplemental Order

Howard W. Spaletta, 4/19/96, VWX–0004

In Howard W. Spaletta, 24 DOE 87,511 (1995), a Hearing Officer found that Mr. Spaletta has been retaliated against in violation of the DOE's Contractor Employee Protection Program, 10 C.F.R. Part 708. This supplemental determination awarded Mr. Spaletta $12,321 in back pay, interest, attorney's fees, and other expenses.

Refund Application

Atlantic Richfield Company/Little America Refining Company, 4/15/96, RF304–9095

Little America Refining Company (LARCO) sought a refund in the Atlantic Richfield Company Subpart V Special Refund Proceeding based upon purchases of 1.333 billion gallons of ARCO products. During much of the refund period, LARCO had received ''*Delta/Beacon*'' exception relief from the Oil Entitlement Program. The DOE noted that *Delta/Beacon* exception relief generally insulated the recipient from the affects of any overcharges, since any overcharges the firm may have experienced would have been compensated for by greater *Delta/Beacon* relief. Accordingly, the DOE found that LARCO could not have been injured by any overcharges for those periods for which LARCO received entitlement exception relief, and a refund is inappropriate.

Moreover, the DOE determined that LARCO is ineligible for any refund, because its settlement of a private law suit against ARCO resolved all claims involving the petroleum price and allocation laws and regulations. The DOE found that the settlement constituted full compensation for any ARCO overcharges that LARCO may have experienced and that a refund would result in double compensation at the expense of other injured parties. Consequently, the DOE determined that LARCO is not eligible to receive any Subpart V refund from the ARCO consent order funds. Furthermore, even if the effects of the settlement and receipt of *Delta/Beacon* exception relief were discounted, LARCO was at a competitive disadvantage with respect to only about 15 percent of the ARCO products it purchased, as its other ARCO purchases were priced below the prevailing market prices. Accordingly, LARCO's Application for Refund 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.

COOLEY FARMS ET AL	RK272–0126	04/15/96
CRUDE OIL SUPPLE REF DIST	RB272–00072	04/18/96
DALE OLSEN ET AL	RK272–00008	04/16/96
GULF OIL CORPORATION/PINEY GROVE HARDWARE ET AL	RF300–13196	04/15/96

[FR Doc. 96–26422 Filed 10–15–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of June 10 Through June 14, 1996

During the week of June 10 through June 14, 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: October 7, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 976

Personnel Security Hearings

Albuquerque Operations Office, 6/10/96, VSO–0083

A DOE Hearing Officer issued an Opinion concerning the eligibility of an individual for continued access authorization. The Hearing Officer found that the individual had not mitigated the security concern arising from his occasional use of marijuana over a 14-year period. Most importantly, the Hearing Officer concluded that there had not been sufficient time since the individual's last use of marijuana to indicate that he will refrain in the future from the use of illegal drugs. The Hearing Officer also found that the individual had failed to mitigate the security concerns associated with (1) his deliberate falsification of significant information concerning his prior drug use on his QSP or (2) his recent arrest for speeding, evading arrest, and possession of drug paraphernalia. Accordingly, the Hearing Officer recommended that the individual's access authorization should not be restored.

Albuquerque Operations Office, 6/12/96, VSA–0061

An individual filed a request for review of a DOE Hearing Officer's recommendation against restoring his access authorization. The access authorization had been suspended by the Department of Energy's Albuquerque Operations Office (DOE/AL) upon its receipt of derogatory information indicating that the individual had engaged in unusual conduct tending to show that he is not honest, reliable, or trustworthy.

Upon review, the individual claimed (1) that he did not commit any crimes related to the non-filing of income tax returns and the non-payment of income tax, and (2) that his actions did not constitute unusual conduct. The Director found that the issues presented by the individual did not mitigate the DOE's security concerns. Accordingly, the Director found that the individual's access authorization should not be restored.

Request for Exception

Mercury Fuel Service, Inc., 6/14/96, VEE–0020

The Department of Energy granted exception relief to Mercury Fuel Service, Inc., from its obligation to file Form EIA–782B. In the Decision, the DOE determined that the filing requirement imposed a severe burden on Mercury because the owner and other key administrative personnel who could complete the form were experiencing severe health problems. The DOE, therefore, relieved Mercury of its obligation to file the form until September 1997.

Supplemental Order

C. Lawrence Cornett, 6/13/96, VWX–0009

A Hearing Officer from the Office of Hearings and Appeals issued an Order to Show Cause regarding a Motion to Dismiss filed by Maria Elena Torano Associates, Inc. (META). META sought the dismissal of a complaint filed by C. Lawrence Cornett under the DOE's Contractor Employee Protection Program, 10 C.F.R. Part 708. In its Motion, META alleged that it did not perform work at DOE sites as defined by Section 708.4, and thus it was not subject to Part 708 jurisdiction. After reviewing the affidavits submitted by the parties on the nature and extent of work activities performed by META employees, the Hearing Officer issued an Order to Show Cause and scheduled a hearing on the jurisdictional issue raised by META.

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.

Boston Buffalo Express, Inc	RG272–325	06/13/96
City of NAPA et al	RA272–73	06/11/96
Cravat Coal Co., Inc	RG272–318	06/13/96
Equitable Gas Company et al	RF272–77197	06/13/96
Golden Cat Division/Ralston Purina Company	RJ272–00012	06/13/96
Gulf Oil Corporation/Bob's Gulf	RF300–16872	06/13/96
Gulf Oil Corporation/C.B. Hughes	RF300–21832	06/14/96
Kenneth Whipple et al	RK272–02055	06/14/96
Lacrescent Oil Company	RG272–328	06/13/96
New Orleans Public Service, Inc	RF272–88742	06/11/96
North Florida Transport Service, Inc	RG272–311	06/13/96
Silvey Refrigerated Carriers, Inc	RF272–77714	06/13/96
St. Peter's Parish et al	RF272–97803	06/11/96
Yellow Freight System, Inc	RG272–355	06/13/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Affiliated Aggregates	RF272–98169
American Safety Service, Inc	RF272–98198
Blachowske Truck Line, Inc	RG272–330
Brisbane Elementary School	RF272–95933
Central Sand & Gravel	RF272–98241
Chaseburg Farmers Union Co-op	RG272–344
Choi Aviation Inc	RF272–97993
County Concrete Co	RF272–98254
Davidson Supply Co	RF272–98161
F. Randandt & Sons	RF272–98176
Fairchild-Florida Construction Co	RF272–98257
Farmers Union Oil	RG272–292
Farmers Union Oil Co	RG272–317
Francis J. Palo, Inc	RF272–98206
Frank Silha & Sons Excavating	RF272–98246
H.B. Rowe & Co., Inc	RF272–98251
Herlihy Mid-Continent Co	RF272–98248
Highways, Inc	RF272–98173
J.D. Eckman, Inc	RF272–98205
J.F. Allen Co	RF272–98258
John J. Mudge	VFA–0158
L.A.B. Flying Services Inc	RF272–97987
Lang Bros., Inc	RF272–98244
Louis & Armando Bolli	RF300–14605
McKay Contractors, Inc	RF272–98247
Miller Cable Co	RF272–98172
Modale Cooperative Assn.	RG272–354
Northern Pipeline Construction Co	RF272–98252
P.J. Construction Co	RF272–98240
P.S. & F. Construction Co	RF272–98170
Pan American Construction Co	RF272–98243
Rosebud Farmers Union Co-op	RG272–322
Ryan Air Services, Inc	RF272–97999
S.G. Hayes and Co	RF272–98253
Saint Charles County Co-op Co	RG272–587
Saudi Arabian Airlines Corp	RG272–743
Schuykill, Inc	RF272–98174
Sheboygan Sand & Gravel	RF272–98177
Spartan Express	RG272–619
Unalakleet Air Taxi	RF272–97978
V.O. Menuez & Son, Inc	RF272–98255
Valley Seeding Co, Inc	RF272–98259
Wayne W. Sell Corp	RG272–343
Wilbur's Inc	RF272–97970
Zambia Airways Corp	RF272–97947

[FR Doc. 96–26423 Filed 10–15–96; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders; Week of August 12 Through August 16, 1996

During the week of August 12 through August 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, 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: October 7, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 985

Appeal

Greenpeace, 8/12/96, VFA–0186

The Department of Energy denied a Freedom of Information Act Appeal that was filed by Greenpeace. In its Appeal, Greenpeace sought the release of transcripts of certain electronic mail communications. In the decision, the DOE found that the transcripts were properly withheld under Exemption 5.

Refund Application

Midwest Specialized Transportation, Inc., 8/14/96, RF272–97965

The DOE denied an Application for Refund filed on behalf of Midwest Specialized Transportation, Inc. (MST) in the crude oil refund proceeding. Prior to the filing of MST's Application, MST had applied for a refund in the Surface Transporters proceeding. After MST informed the DOE in 1987 that MST's owner-operators had purchased more than 99 percent of the fuel used in MST's surface transportation activities, and MST had itself purchased less than 250,000 gallons, the DOE found MST

ineligible for a Surface Transporters refund. In MST's 1994 Subpart V crude oil refund, the applicant claimed that it, not its owner/operators, purchased 2,298,915 gallons of refined petroleum products. In its decision, the DOE determined that because MST had now proved that it bought more than 250,000 gallons, it had been eligible for a Surface Transporters refund. Thus, the applicant's Stripper Well waiver was effective, and the DOE denied MST's Subpart V refund application. Further, the DOE could not reopen the Surface Transporters proceeding, as the proceeding closed years ago, and the applicant failed to present any adequate reason for failing to submit a timely Motion for Reconsideration in that earlier proceeding.

Dismissals

The following submissions were dismissed:

Name	Case No.
BROOKS SCANLON, INC.	RF272–97995
CITY OF RICHARDSON	RF272–95234
ROCKY FLATS FIELD OFFICE.	VSO–0105
SOUTHLAND POWER CONSTRUCTORS.	RF272–77584
TRAP ROCK INDUSTRIES, INC.	RF272–95254

[FR Doc. 96–26424 Filed 10–15–96; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders; Week of September 4 Through September 8, 1995

During the week of September 4 through September 8, 1995, 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: October 7, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 936

Appeals

James Minter, 9/6/95, VFA–0064

James Minter filed an Appeal from a determination issued by the Albuquerque Operations Office (DOE/AL) in response to a request filed under the Freedom of Information Act. The Appellant sought documents relating to an alleged assault and battery between himself and another DOE employee. In its Decision, the Office of Hearings and Appeals (OHA) rejected the Appellant's attempt to expand the scope of the appeal. The OHA concluded that there may be responsive documents that were not identified in the initial search. Accordingly, the DOE granted the Appeal and remanded the matter to DOE/AL for further action.

Klickitat Energy Partners, 9/8/95, VFA–0065

Klickitat Energy Partners filed an Appeal from a partial denial by the Bonneville Power Administration of a Freedom of Information Act Request. The DOE found that BPA failed to provide adequate descriptions of the documents that were withheld under Exemption 5, and that the justification for withholding documents was inadequate. The matter was remanded to BPA for a new determination. The DOE also found that BPA's search for responsive documents was adequate.

Personnel Security Hearing

Oak Ridge Operations Office, 9/8/95, VSO–0029

A Hearing Officer recommended that access authorization not be restored to an employee whose access was suspended due to evidence of alcohol dependence. The Hearing Officer found the employee had not shown sufficient evidence of rehabilitation to mitigate valid security concerns raised by his excessive use of alcohol.

Refund Applications

State of Montana, Et Al., 9/5/95; RK272–00147, Et Al.

During a review process for the issuance of a supplemental refund to all applicants previously granted refunds in the crude oil proceeding, the Office of Hearings and Appeals (OHA) discovered a group of possible duplicate refunds. The OHA determined that in each case the smaller refund should be rescinded. However, the OHA did not order a direct repayment of that money. Instead each applicant's supplemental refund will be reduced by the overpayment.

Texaco Inc./Sun Enterprises, Ltd. and Anglo-American Shipping Co., 9/6/95, RF321–7581; RR321–7582

The DOE issued a Decision and Order concerning Applications for Refund submitted by Sun Enterprises, Ltd. (Sun) and Anglo-American Shipping Co. (Anglo) in the Texaco Inc. special refund proceeding. Both applicants submitted invoices indicating that they purchased, in the United States, a portion of their petroleum products from London based Texaco, Ltd. The applicants argued that U.S. Texaco Ltd. purchases should not be deemed a ''first sale into U.S. commerce,'' and thus ineligible for a refund, because Texaco Ltd. would have most likely sold U.S. price-controlled petroleum products instead of higher priced ''first sale'' foreign imported oil. The DOE held that it would presume, in the absence of other information indicating that a purchase was, in fact, a ''first sale'' purchase, that Sun's and Anglo's purchases in which the product was obtained in the United States would be eligible for a refund in the Texaco proceeding. Consequently, the DOE approved refunds for the applicants.

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.

Crude Oil Supplemental Refund Distribution, RB272–25, 09/05/95

Crude Oil Supplemental Refund Distribution, RB272–45, 09/06/95

Crude Oil Supplemental Refund Distribution, RB272–18, 09/08/95

Crude Oil Supplemental Refund Distribution, RB272–50, 09/08/95

Texaco Inc./R.W. Dickman Company, Inc., RR321–0116, 09/05/95

Dismissals

The following submissions were dismissed:

Name and Case No.

Albuquerque Operations Office; VSO–0047

Craig Investments, Inc.; RF304–15177

Jacob's Fuel Oil Service; RF300–21559

[FR Doc. 96–26425 Filed 10–15–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5636–7]

Agency Information Collection Activities Under OMB Review; Standards of Performance for Onshore Natural Gas Processing Plants

AGENCY: Environmental Protection Agency.

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) for Standards of Performance for Onshore Natural Gas Processing Plants described 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 burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 15, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1086.05.

SUPPLEMENTARY INFORMATION:

Title: [NSPS Subparts KKK (for VOC emissions) and LLL (for SO_2 emissions), Standards of Performance for Onshore Natural Gas Processing Plants], (OMB Control No. 2060–0120; EPA ICR No. 1068). This is a request for extension of a currently approved collection.

Abstract: Owners/Operators of Onshore Natural Gas Processing Plants subject to Subparts KKK and LLL must notify EPA of construction, modification, startups, shutdowns, malfunctions, dates and results of initial performance tests. Owners/operators subject to these standards must make one-time-only reports of notification of the date of construction or reconstruction and notification of the anticipated and actual startup dates. Owners/operators subject to these standards must also report on the notification of any physical or operational change that may cause emissions increases and are also required to maintain records of the occurrence and duration of any startup, shutdown or malfunction in the operation of an affected facility, or any period in which the monitoring system is inoperable.

Facilities subject to Subpart KKK must provide information on leaks, including the date when the leak was detected, the repair method used and other pertinent details. Facilities subject to Subpart LLL must submit information on excess SO_2 emissions. Large facilities subject to Subpart LLL must install, calibrate, maintain and operate SO_2 CEMS. These facilities would also have to submit the results of initial performance tests. Owners/operators of all affected facilities must report semiannually on the operating information contained in the records. This information is collected and used to ensure that the standards for VOC and SO_2 emissions are being met. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 3/26/96 (61 FR 13172).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 101 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Estimated Number of Affected Entities: 332.

Frequency of Response: Semiannually and as needed.

Estimated Total Annual Hour Burden: 46,032 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1086.05 and OMB Control No. 2060–0120 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: October 9, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–26450 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5619–2]

Water Pollution Control; Approval of Application by Utah to Administer the Sludge Management (Biosolids) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of Application.

SUMMARY: The State of Utah submitted an application to EPA to administer and enforce the sludge management program for regulating sludge management activities in the State. The program was authorized effective June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Bob Brobst at (303) 312–6129, Water Permits Team (8P2–W–P); USEPA, Region VIII; One Denver Place, 999 18th Street, Suite 500; Denver, CO 80202–2466.

SUPPLEMENTARY INFORMATION: The application of the Utah Department of Environmental Quality (UDEQ) was received by EPA on October 10, 1995. Modifications were made to the Addendum to the Memorandum of Agreement for Sludge Management Program, based on discussions between EPA, UDEQ, and the Office of the State Attorney General.

UDEQ's application was described in the April 17, 1996 Federal Register at Vol. 61, No. 75, pages 16787 and 16788, and in notices published in the Salt Lake Tribune and Deseret News and the St. George Daily Spectrum on April 20, 1996.

Copies of UDEQ's application package were available for public review at the EPA Region VIII Office and at the UDEQ office in Salt Lake City, Utah.

EPA provided copies of the public notice to permitted facilities, tribal councils and tribal environmental agencies, certain Federal agencies, and environmental groups within Utah. The mailing list used is part of the record of the program application and review process. EPA and UDEQ discussed the program application with the Utah Office of the U.S. Fish & Wildlife Service and received their concurrence

that the proposed program authorization was unlikely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species. By letter dated April 4, 1996, EPA provided a copy of Utah's application to the Utah State Historic Preservation Officer and received their concurrence by letter dated April 16, 1996. EPA accepted written comments from the public. All comments or objections received in writing by EPA Region VIII by May 20, 1996 were considered by EPA.

Two comments were received.

The first comment concerned jurisdiction on Indian Country. The Blackfeet Nation, Blackfeet Environmental Office, stated that:

''Utah DEQ should only be able to permit on lands outside the exterior boundary of the Indian reservations in Utah. The Environmental Protection Agency has the sole responsibility of permitting on the reservation if the tribes do not or are not capable of permitting themselves. I feel that to ensure environmental justice to Indian Tribes, permitting should only be done by Tribes or EPA, not States.''

As outlined in EPA's April 17, 1996 Federal Register and April 20, 1996 newspaper notices, EPA withheld from sludge management program authorization consideration those lands which were in Indian Country or for which there was significant controversy over whether or not the land was Indian Country. The notices also acknowledged that the exact geographical extent of Indian Country within the Uintah and Ouray Indian Reservation was currently under litigation in Federal court, and until that litigation was complete, that the EPA would enter into discussions with the Ute Indian tribe of the Uintah and Ouray Reservation and with the State of Utah to determine the best interim approach to managing the program in the disputed area. In withholding authorization for these areas, EPA was not making a determination as to whether or not Utah had adequate jurisdiction. As noted earlier, EPA provided copies of Utah's public notices to tribal councils and tribal environmental agencies located within or abutting the State of Utah.

It should be noted that there are no EPA-issued sludge management permits for facilities or activities in Indian Country at this time. Operators or owners of facilities or activities subject to the sludge management program which are located on or within the Uintah and Ouray Reservation should send permit applications to EPA. Persons with questions as to whether their facilities may be in Indian Country are advised to consult with the Bureau of Indian Affairs and the EPA.

The second comment, from the Milwaukee Metropolitan Sewerage District, supported approval of Utah's request for delegation of the biosolids program. The District also requested that EPA issue national guidance explicitly providing for reciprocity for other-state issued permits for ''exceptional quality'' bulk or bagged sludge. This request was outside the purview of this authorization action and was forwarded to the EPA Office of Water.

Conclusion

The State of Utah has demonstrated that it adequately meets the requirements for program modification to include sludge management as defined in the Clean Water Act, 40 CFR Part 123, and 40 CFR Part 503. The U.S. Fish & Wildlife Service concurred with the EPA ''no adverse effect'' determination regarding program authorization. The State Historic Preservation Office concurred with the EPA ''no affect'' determination.

At this time, EPA is withholding authorization to administer the sludge management program on Indian Country located within Utah, including lands for which there is significant controversy over whether or not the land is Indian Country.

Federal Register Notice of Approval of State NPDES Programs or Modifications

EPA must provide Federal Register notice of any action by the Agency approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country. Today's Federal Register notice is to announce the approval of Utah's authority to administer the sludge management program.

STATE NPDES PROGRAM STATUS

State	Approved state NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program	Approved general permits program	Approved sludge management program
Alabama	10/19/79	10/19/79	10/19/79	06/26/91	
Arkansas	11/01/86	11/01/86	11/01/86	11/01/86	
California	05/14/73	05/05/78	09/22/89	09/22/89	
Colorado	03/27/75			03/04/83	
Connecticut	09/26/73	01/09/89	06/03/81	03/10/92	
Delaware	04/01/74			10/23/92	
Florida [1]	05/01/95	05/01/95	05/01/95	05/01/95	
Georgia	06/28/74	12/08/80	03/12/81	01/28/91	
Hawaii	11/28/74	06/01/79	08/12/83	09/30/91	
Illinois	10/23/77	09/20/79		01/04/84	
Indiana	01/01/75	12/09/78		04/02/91	
Iowa	08/10/78	08/10/78	06/03/81	08/12/92	
Kansas	06/28/74	08/28/85		11/24/93	
Kentucky	09/30/83	09/30/83	09/30/83	09/30/83	
Maryland	09/05/74	11/10/87	09/30/85	09/30/91	
Michigan	10/17/73	12/09/78	04/16/85		
Minnesota	06/30/74	12/09/78	07/16/79	12/15/87	
Mississippi	05/01/74	01/28/83	05/13/82	09/27/91	
Missouri	10/30/74	06/26/79	06/03/81	12/12/85	
Montana	06/10/74	06/23/81		04/29/83	
Nebraska	06/12/74	11/02/79	09/07/84	07/20/89	
Nevada	09/19/75	08/31/78		07/27/92	
New Jersey	04/13/82	04/13/82	04/13/82	04/13/82	
New York	10/28/75	06/13/80		10/15/92	
North Carolina	10/19/75	09/28/84	06/14/82	09/06/91	

STATE NPDES PROGRAM STATUS—Continued

State	Approved state NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program	Approved general permits program	Approved sludge management program
North Dakota	06/13/75	01/22/90	.....	01/22/90	
Ohio	03/11/74	01/28/83	07/27/83	08/17/92	
Oregon	09/26/73	03/02/79	03/12/81	02/23/82	
Pennsylvania	06/30/78	06/30/78	.....	08/02/91	
Rhode Island	09/17/84	09/17/84	09/17/84	09/17/84	
South Carolina	06/10/75	09/26/80	04/09/82	09/03/92	
South Dakota	12/30/93	12/30/93	12/30/93	12/30/93	
Tennessee	12/28/77	09/30/86	08/10/83	04/18/91	
Utah	07/07/87	07/07/87	07/07/87	07/07/87	06/14/96
Vermont	03/11/74	.....	03/16/82	08/26/93	
Virgin Islands	06/30/76	.....	.....	.....	
Virginia	03/31/75	02/09/82	04/14/89	05/20/91	
Washington	11/14/73	.....	09/30/86	09/26/89	
West Virginia	05/10/82	05/10/82	05/10/82	05/10/82	
Wisconsin	02/04/74	11/26/79	12/24/80	12/19/86	
Wyoming	01/30/75	05/18/81	.....	09/24/91	
Totals	41	36	29	39	1

Number of Fully Authorized Programs (Federal Facilities, Pretreatment, General Permits, Sludge Management)=1.

[1] The Florida authorizations of 05/01/95 represents a phased NPDES program authorization to be completed by the year 2000.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate facilities or businesses that will become subject to the requirements of an approved state sludge management program. However, since such small entities which own and/or operate sludge management facilities or businesses are already subject to the requirements in 40 CFR parts 423 and 503, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether EPA or the State administers the sludge management program in that State), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a State to administer its own sludge management program, these same small entities will be able to own and operate their facilities or businesses under the approved state program, in lieu of the Federal program. Moreover, this authorization, in approving a State program to operate in lieu of the Federal program, eliminates duplicative requirements for owners and operators of sludge management facilities and businesses in that particular State.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively approves the Utah program to operate in lieu of the Federal program, thereby eliminating duplicative requirements for sludge management facility or business operators or owners in the State. It does not impose any new burdens on small entities. This document, therefore, does not require a regulatory flexibility analysis.

Executive Order 12866

The Office of Management and Budget has exempted this document from Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UNRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's document contains no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program, except in certain cases where a ''federal intergovernmental mandate'' affects an annual federal entitlement program of $500 million or more that are not applicable here. Utah's request for approval of its sludge management program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having

its sludge management program approved, the State will gain the authority to implement the program within its jurisdiction, in lieu of EPA thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of a sludge management program, regulation is left to EPA.

In any event, EPA has determined that this document does not contain a Federal mandate that may result in expenditures $100 million or more for State, local, and tribal governments in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Utah's sludge management program referenced in today's notice will result in annual costs of $100 million or more. EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the State, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement. Hence, owners and operators of sludge management facilities or businesses generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's document is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this document contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate sludge management facilities that will become subject to the requirements of an approved State sludge management program. However, such small governments which own and/or operate sludge management facilities or businesses are already subject to the requirements in 40 CFR parts 123 and 503 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own sludge management program and any revisions to that program, these same small governments will be able to own and operate their sludge management facilities or businesses under the approved State program, in lieu of the Federal program.

Dated: August 28, 1996.

Jack W. McGraw,

Acting Regional Administrator, Environmental Protection Agency, Region VIII.

[FR Doc. 96–26328 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Licensee Order To Show Cause

The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following matter:

Licensee	City/State	MM Docket No.
Group Communications, Inc.	West Valley City, UT.	96–201

(regarding the silent status of Station KRGQ(AM))

Pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Group Communications, Inc. has been directed to show cause why the license for Station KRGQ(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Group Communications, Inc. has the capability and intent to expeditiously resume the broadcast operations of KRGQ(AM), consistent with the Commission's Rules.

(2) To determine whether Group Communications, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Group Communications, Inc. is qualified to be and remain the licensee of Station KRGQ(AM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission

Stuart B. Bedell.

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–26433 Filed 10–15–96; 8:45 am]

BILLING CODE 6712–01–P

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, has before him the following application for renewal of broadcast license

Licensee	City/State	File No.	MM Docket No.
L.T. Simes and Raymond Simes.	Marianna, AR.	BR–960201BE	96–200

(seeking renewal of the license for KZOT(AM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether L.T. Simes and Raymond Simes have the capability and intent to expeditiously resume the broadcast operations of KZOT(AM), consistent with the Commission's Rules.

(b) To determine whether L.T. Simes and Raymond Simes have violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application would service the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the dockets section of the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–26432 Filed 10–15–96; 8:45 am]

BILLING CODE 6712–01–P

[Report No. 2159]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

October 10, 1996.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these document are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor,

ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by October 31, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Chillicothe, Forest, Lima, New Washington, Peebles and Reynoldsburg, Ohio) (MM Docket No. 90–318, RM–7311, RM–7516).

Number of Petitions Filed: 1.

Subject: Amendments of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices. (ET Docket No. 95–19).

Number of Petitions Filed: 3.

• This Public Notice includes the petition filed by Ghery S. Pettit and Doug Probstfeld for Intel Corporation on 07/19/96. A previous Public Notice, Report No. 2146, was released on August 7, 1996 and published in the Federal Register on August 13, 1996, listed only two petitions. We are therefore placing all three petitions on public notice at this time.

Subject: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996. (CC Docket No. 96–98).

Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers. (CC Docket 95–185)

Number of Petitions Filed: 45.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–26575 Filed 10–15–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

G.S.I. Cargo Systems Inc., 600 Bayview Avenue, Inwood, NY 11096. Officers: Gerald Greenstein, President, Yitzchak Goldstein, Vice President.

International Shipping Link, Inc., 1250 South Harbor City Blvd., Suite 30, Melbourne, FL 32901, Officer: Tariq Shahzad, President.

Dated: October 9, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–26392 Filed 10–15–96; 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 October 29, 1996.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Brian G. West, Rice Lake, Wisconsin; to retain a total of 21.4 percent of the voting shares of Rice Lake Bancorp, Inc., Rice Lake, Wisconsin, and thereby indirectly retain Dairy State Bank, Rice Lake, Wisconsin.

Board of Governors of the Federal Reserve System, October 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–26418 Filed 10-15-96; 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 November 8, 1996.

A. Federal Reserve Bank of Cleveland (R. Chris Moore, Senior Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Financial Bancorp, Hamilton, Ohio; to merge with Hastings Financial Corporation, Hastings, Michigan, and thereby indirectly acquire National Bank of Hastings, Hastings, Michigan.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Old Kent Financial Corporation, Grand Rapids, Michigan; to merge with Seaway Financial Corporation, St. Clair, Michigan, and thereby indirectly acquire The Commercial and Savings Bank of St. Clair County, St. Clair,

Michigan, and The Algonac Savings Bank, Algonac, Michigan.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Glacier Bancorp, Inc., Kalispell, Montana; to merge with Missoula Bancshares, Inc., Missoula, Montana, and thereby indirectly acquire First Security Bank of Missoula, Missoula, Montana.

2. United Community Bancshares, Inc., Eagan, Minnesota; to acquire 100 percent of the voting shares of Park Financial Corporation, St. Louis Park, Minnesota, and thereby indirectly acquire Park National Bank, St. Louis Park, Minnesota.

Board of Governors of the Federal Reserve System, October 9, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–26417 Filed 10-15-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 9:30 a.m., Monday, October 21, 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. Proposed 1997 Federal Reserve Bank officer salary structure adjustments.
2. Proposed 1997 Federal Reserve Board employee salary structure adjustments and merit program.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. 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: October 11, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–26698 Filed 10–11–96; 3:15 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR D–239]

Delegation of Lease Acquisition Authority

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin announces the beginning of a new approach to doing business in the General Services Administration (GSA) leasing program called ''Can't Beat GSA Leasing.''

EFFECTIVE DATE: October 14, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Marjorie L. Lomax, Director, Evaluation and Outreach, Office of Real Property, Washington, DC 20405, telephone 202–501–3476.

SUPPLEMENTARY INFORMATION:

Public Buildings and Space

Subject: Delegation of Lease Acquisition Authority

1. *Purpose.* This bulletin announces the beginning of a new approach to doing business in the General Services Administration (GSA) leasing program called ''Can't Beat GSA Leasing.'' This program represents a change in policy at GSA regarding the leasing of general purpose space and provides Federal agencies the option of using GSA or performing the space acquisition function themselves through a delegation of leasing authority. The Administrator of General Services issued a letter on September 25, 1996, to the heads of all Federal agencies providing the delegation of leasing authority.

2. *Expiration.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Background.* a. The ''Can't Beat GSA Leasing'' program is an outgrowth of GSA's commitment to streamline its leasing operations. Under this new program, GSA is providing each Federal agency a simple choice. Either engage GSA to provide the most cost-effective and fastest service in the real estate market today or use the delegated leasing authority to perform the space acquisition on their own.

b. GSA has taken this action to respond to the needs of a changing world in which Government must work faster, smarter, cheaper and better. GSA is committed to provide space so that Federal agencies can meet those needs.

c. GSA is committed to meet these challenges to work up to new standards of excellence. At the same time, GSA has listened carefully to recommendations from many client agencies and the Vice President's National Performance Review to open itself to competition.

d. Under ''Can't Beat GSA Leasing,'' GSA has developed new strategies and retooled its entire leasing operation. GSA has refocused its energies on the needs of its customers. To cite just a few examples:

1. The Rent pricing structure is now clearer and more responsive to our customers.

2. The Rent GSA will charge Federal agencies for leased space will be based on GSA's rent plus a service fee comparable to that charged by private sector agents.

3. GSA can now provide customized tenant allowances and flexibility in payment alternatives for above standard items.

e. The most important change at GSA is the ''can do'' attitude of GSA's experienced, warranted real estate contracting officers. These highly motivated employees have been empowered to respond to the needs of Federal agencies with sound business practices that make sense.

f. GSA's leasing specialists will continue to follow all applicable statutory and regulatory requirements. These are the same requirements that Federal agencies will be expected to follow if they choose to lease space on their own or use other brokerage services.

4. *Action.* a. Pursuant to the authority vested in the Administrator of General Services by subsections 205(d) and 210(h)(1) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority was delegated by the Administrator in his letter of September 25, 1996, to the heads of all Federal agencies to perform all functions related to the leasing of general purpose space for a term of up to 20 years regardless of geographic location. This delegation of authority does not alter the space delegations in sections 101–18.104–2 and –3 of the Federal Property Management Regulations, which pertain to ''categorical'' and ''special purpose'' space.

b. The ''Can't Beat GSA Leasing'' program will be effective October 14, 1996, and agencies will be able to use the delegated leasing authority subject to the following conditions:

1. Prior to instituting any action under this delegation, the head of a Federal agency or its designee shall notify the appropriate GSA, Assistant Regional Administrator for Public Buildings

Service (ARA/PBS) of the agency's need for general purpose space and the agency's intent to exercise the authority granted in this delegation. The agency may exercise the authority contained in this delegation when the ARA/PBS determines that suitable Government-controlled space is not available to meet the space need of the Federal agency.

2. Relocation of Government employees from GSA-controlled federally owned or leased space may take place when prior written confirmation has been received from the appropriate ARA/PBS that suitable Government-controlled space cannot be provided for them.

3. A prospectus has been approved by the Congressional Committees pursuant to the Public Buildings Act of 1959 when the annual rental for the lease contract, excluding service and utilities, exceeds $1.74 million, as adjusted annually in accordance with 40 U.S.C. 606(f). In this circumstance GSA will prepare the prospectus in consultation with the agency.

4. Redelegation of the authority to lease may be made to those officers, officials, and employees who have been adequately trained as lease contracting officers.

5. Federal agencies must acquire and utilize the space in accordance with all applicable laws and regulations, including, but not limited to, the Competition in Contracting Act, Federal Property Management Regulations, Executive Order 12072, Executive Order 13006, Davis Bacon Act, and the General Services Administration Acquisition Regulation.

6. Agencies periodically provide GSA with leasing performance information.

c. Further information regarding this program may be obtained by contacting Ms. Marjorie L. Lomax, Director, Evaluation and Outreach, Office of Real Property on (202) 501–0379.

Dated: October 3, 1996.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

[FR Doc. 96–26050 Filed 10–15–96; 8:45 am]

BILLING CODE 6820–23–M

[GSA Bulletin FPMR D–240]

Federal Real Property Asset Management Principles

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin announces the issuance of the Federal real property asset management principles to the head of all Federal landholding agencies.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division, MPR, Washington, DC 20405, telephone 202–501–1737.

SUPPLEMENTARY INFORMATION:

Public Buildings and Space

To: Heads of Federal Agencies

Subject: Federal Real Property Asset Management Principles

1. *Purpose.* This bulletin announces the issuance of the Federal real property asset management principles to the heads of all Federal landholding agencies.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Background.* a. In 1993, the National Performance Review (NPR) recommended that the Administrator of General Services develop asset management principles to guide the Federal Government's real property ownership enterprise.

b. In response to the recommendation of the NPR, in 1994, the Federal Asset Management Planning Group met to developed a set of goals and principles for management of the Federal real property portfolio. This group consisted of representatives from the General Services Administration (GSA), other Government agencies and interested parties from the private sector, and issued an initial set of real property asset management principles.

c. In accordance with the NPR, the work of the Federal Asset Management Planning Group, as well as in collaboration with the Federal Government's real property holding agencies, the Office of Real Property has continued to develop a set of comprehensive real property asset management principles.

d. The work of revising the initial set of asset management principles has been completed. The results of this effort are the real property asset management principles attached to this bulletin. They are in two formats: the first is a shorter, more concise version (Attachment 1); the second is an expanded version which provides a general discussion of the concept of the principles, as well as providing definitions and examples of each (Attachment 2).

4. *Action.* Federal agencies should use these principles as guides to assist them in managing their portfolio of real property assets. They should also be used as a frame of reference in making sound real property asset management decisions, to help reduce costs associated with managing real property assets, to provide incentives to improve real property asset management, and to increase the efficiency and maximize the performance of the portfolio of Federal real property assets that they manage.

The principles should be applied by all Federal real property asset managers throughout the life cycle of a real property asset. They should be used as a ''baseline'' whereby all Federal landholding agencies are working in the same, or similar manner. They should also encourage better communication among such agencies to enhance the overall asset management functions of the Federal Government's real property activities.

Dated: October 2, 1996.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

Attachments

Attachment 1.—Governmentwide Federal Real Property Asset Management Principles

Introduction

Asset management is the general term used to define the relationship between a real property holding entity and the real property that such an entity holds an interest in. This relationship includes, but is not limited to, the financial management of such assets, the day-to-day management of the real property itself, and maintaining the satisfaction of the tenants that occupy the space that defines the real property asset. This relationship covers the life cycle of a real property asset—its acquisition, utilization and disposal. Asset management succeeds when such organizations adopt effective asset management principles and use strategic planning as the framework for making real property asset management decisions. The Governmentwide Federal real property asset management principles are attached.

Governmentwide Federal Real Property Asset Management Principles

1. Use What You Have First. Real property assets under the custody and control of the Federal Government should be considered first when accommodating Federal agency mission requirements.

2. Buy Only What You Need. The amount of interest in Federal real property assets should be the minimum necessary to effectively support a Federal agency's mission.

3. Use Industry-Like Instruments of Agreement. Real property assets of the Federal Government should be utilized among agencies with the use of instruments of agreement that follow the best practices of the industry.

4. Reinvestment is Essential. Reinvestment in a real property asset is essential to maintain its fair market value, its ability to benefit from advancements in business practices and technologies, and to support the Federal mission and enhance employee productivity.

5. Income/Expenses Comparable to the Market. Any income realized by a real property asset during its useful life should approximate that generated by a comparable commercial property; while any expense by such an asset during its life cycle should approximate that incurred by a comparable commercial property.

6. Maximize Use Among Agencies. The maximum utility of a real property asset can be realized if it is continuously transferred among agencies having mission needs while it is under the control of the Federal Government.

7. Timely Disposal. A Federal real property asset that has no further mission support use by the Federal Government should be disposed of timely and in a manner that best serves the public interest.

8. Retain Proceeds From Disposal and Outleasing. The proceeds gained from the disposal of a Federal real property asset, or from outleasing, should be available for use by the agency having custody, control and use of the asset.

9. Professional Training. Federal employees should be given the training needed to perform their jobs at the highest level of professionalism, and in order to utilize models and other analytical tools for optimizing their real property asset management decisions.

Attachment 2.—Governmentwide Federal Real Property Asset Management Principles

Introduction

Asset management is the general term used to define the relationship between a real property holding entity and the real property that such an entity holds an interest in. This relationship includes, but is not limited to, the financial management of such assets, the day-to-day management of the real property itself, and maintaining the satisfaction of the tenants that occupy the space that defines the real property asset. This relationship covers the life cycle of a real property asset—its acquisition, utilization and disposal.

Examples of entities that hold real property assets, and are therefore involved in the management of them, include corporations that own or lease commercial properties, pension funds that own real property on behalf of fund members for purposes of enhancing fund wealth, and the United States Government which owns and leases real property in order to perform services on behalf of the citizens of the United States. Asset management succeeds when such organizations adopt effective asset management principles and use strategic planning as the framework for making real property asset management decisions.

The following asset management principles are intended to help all agencies Governmentwide with real property asset management responsibility. They should be used as guides to assist real property asset managers in making sound asset management decisions, to help reduce costs associates with managing real property assets, to provide incentives to improve real property asset management, and to increase the efficiency and maximize the performance of the portfolio of Federal real property assets that they manage.

These asset management principles should be applied to all phases of the life cycle of a real property asset in order to provide a ''baseline'' whereby all Federal landholding agencies are working in the same, or similar manner, and to encourage better communication among such agencies to enhance the overall asset management functions of Federal Government's real property activities.

Principle #1.—Use What You Have First

Real property assets under the custody and control of the Federal Government should be considered first when accommodating Federal agency mission requirements.

Definition

Federal agency program missions generally require real property assets to support them. This can be reflected in the need for office, warehouse, laboratory or other improved or unimproved real property. To meet these mission needs Federal agencies should first review their current real property inventories to determine whether they have the space on hand to satisfy new mission requirements. If there is insufficient space to satisfy a new program need, agencies should then look to the inventory of other Federal agencies to determine if they have either unneeded or underutilized space. In this way the entire inventory of Federally-controlled space can be screened first before looking outside the Government to satisfy agency space needs.

Example

Agencies often have new requirements for space based on a variety of needs, such as expanded agency program missions or the consolidation of staff from other locations. Whenever this occurs, agencies should first review their current inventory of real property assets to determine if they have space on hand that can meet the need. Such an exercise is practical for a variety of reasons—the time needed to find new space is cut dramatically, current space will usually be less expensive than newly acquired space, currently held space can often be found near the location of the new requirement which can cut overhead and, most important, it is best to use space that is on hand rather than acquire new space while leaving empty or underutilized space as is.

To assist Federal agencies in satisfying these space requirements, GSA has established and implemented a Real Property Information Clearinghouse. The clearinghouse is an electronically connected network of building and facility information and data, organizational structures, policies and procedures that is shared by and benefits real property professionals. The clearinghouse routes users to this information and data, which is made available by Federal Government agencies and commercial realty firms. The clearinghouse allows users to perform queries, print information and download files.

Principle #2.—Buy Only What You Need

The amount of interest in Federal real property assets should be the minimum necessary to effectively support a Federal agency's mission.

Definition

The interest that is acquired in Federal real property assets should be no more than the minimum needed to accommodate a Federal agency's program mission requirements today and in the foreseeable future. To go beyond these minimum requirements would be inappropriate, as taxpayer dollars will have been spent without the appropriate justification, and the mission requirement may have terminated while the useful life of the interest invested in the real property may have years remaining, resulting in the loss of millions of dollars.

Interest in Federal real property can have various meanings such as the type of ownership interest (leased or owned),

the term of the interest if leased, the interest in terms of the capital improvements to the real property, or the amount of space, to name a few. The interest in the asset equates to the amount of time the space is leased, the amount of money expended to build or modernize the property, or the amount of space that the Government has acquired—the more of any of these, the more interest the Government has in the real property asset.

Example

Federal agencies require real property to accomplish their program missions. Since agency programs are the driving force behind the need for real property assets, it follows that the mission need will also drive the amount of interest that the Government invests in the asset as well.

If an agency has a requirement to conduct a study that will last a limited period of time, such as a few years, the space requirement will likely be for leased space, as the purchase and/or construction of a new facility would go far beyond the mission requirement of the agency. However, if an agency's headquarters occupies a Federal building that has outlived its useful economic life, and the need for a consolidated headquarters still exists, then the construction of a new building may be called for. The difference between these two cases in an example of the different space needs that exist for agencies today based on program missions, and the range between the degrees of interest in the real property that must satisfy them. Real property asset managers should be cognizant of these requirements, the importance of not exceeding them, and the need to match mission needs with the most appropriate real property interest so that taxpayer dollars are spent in the most economical and cost-effective manner.

Principle #3.—Use Industry-Like Instruments of Agreement

Real property assets of the Federal Government should be utilized among agencies with the use of instruments of agreement that follow the best practices of the industry.

Definition

In order to best utilize the Federal Govenment's real property assets, the agencies that use them must work together toward a common purpose to ensure that the assets are utilized to the maximum limit of their useful economic life while still satisfying the mission requirement of the occupying agency. In order to do this, agencies must work together by comparing space needs, sharing information on space that others may use, and being willing to release space when it is no longer needed, rather than holding onto it for a need that is likely never to materialize. To assist in this effort, agencies need to use instruments of agreement that follow the best practices of industry.

Example

A common example of an instrument of agreement that is used between real estate entities is an occupancy agreement, which is an agreement defining the relationship between a landlord and tenant. An occupancy agreement will define the terms and conditions set forth between the parties, and will describe their duties and responsibilities. Such agreements are useful because they are written documents that reflect the understanding of each of the parties, and hold them together for a joint purpose and for a specific period to time.

Since an occupancy agreement may not be a legally binding contract, both parties to the agreement are exposed to risk. However, there must be a responsibility on all parties to adhere to the terms of the agreement, thus achieving more businesslike practices and higher levels of performance among agencies.

Principle #4.—Reinvestment is Essential

Reinvestment in a real property asset is essential to maintain its fair market value, its ability to benefit from advancements in business practices and technologies, and to support the Federal mission and enhance employee productivity.

Definition

Regardless of whether the real property asset is owned or leased by the Government, if it is determined that the asset's continued use is needed, reinvestment in it may be necessary. If the asset is owned by the Government, reinvestment may be required to maintain the asset's fair market value, not to mention maintaining its condition to benefit from advances in business practices and technologies, and to enhance employee morale and productivity. Reinvestment in a leased asset is the responsibility of the property owner. It is needed in order for the property to be acceptable to the Government's requirements of realizing the benefits from advances in business practices and technologies, and to enhance employee morale and productivity as well.

Example

If it is determined that the continued use of a real property asset is needed, the task of the asset manager begins with assessing the physical status of the real property, whether owned or leased. Engineering reports determine what the condition of a property is and what improvements, either capital or otherwise, must be made to bring the property up to industry standards. Technological innovations may have been developed that could bring employee productivity and morale to a higher level as well.

An engineering report can be used to assess the physical status of either a Federally-owned building or one that is leased. In the case of Federal ownership, a capital improvement will usually be managed by the GSA Property Development Division, or a similar activity in support of an agency with real property controlling authority, such as the U.S. Army Corps of Engineers. In leased space, the lessor is responsible for these improvements as a condition of the lease.

Besides assessing the physical status of the property, the real property asset manager must also determine when reinvestment should occur. Determining the cost of funds is harder when the asset is Federal real property, as these costs are more difficult to define than in private industry where the manager goes to his/her lender and gets the best rate he/she can obtain. The cost of funds, as well as the timing of their disbursement, must be calculated by the asset manager in order to obtain the lowest cost for capital improvements.

Principle #5.—Income/Expense Comparable to the Market

Any income realized by a real property asset during its useful life should approximate that generated by a comparable commercial property; while any expense by such an asset during its life cycle should approximate that incurred by a comparable commercial property.

Definition

All income and expenses associated with a Federal real property asset should be approximate to current fair market value. The income generated by such an asset should approximate the income that a similar commercial real property asset would generate. Likewise, the expenses of leasing space or of maintaining a Federal real property asset should approximate the expenses of a comparable commercial property.

Income associated with real property assets includes the income that an asset

derives in the form of Rent paid to the Government by an occupying agency or an outlease tenant, as well as income generated by the disposal of the real property asset. Expenses associated with real property include the rent for the space if leased by the Government, as well as the cost of materials, goods and services associated with an asset's utilization.

Example

Income derived from real property assets is realized through the rent stream that the occupants pay to the owner, or through the disposal of the asset through sale or other means. Rental income generated by Federal real property assets applies when rent is paid by a tenant to GSA or the agency that is the Federal custodian of the real property asset, and should approximate the rent paid by tenants in the commercial market. When a Federally-owned real property asset is disposed of, the income generated should approximate that associated with the disposal of a similar commercial real property asset.

When the Government leases space in the market it incurs rental expenses that should approximate the rent for similar commercial space. For example, when GSA leases space to house a Federal tenant, the rent it pays should be at a commercial market rates. Similarly, when GSA houses either a Federal or an outlease tenant, the rental expense to GSA that the tenant incurs should approximate what it would pay to a private landlord in the commercial market. The expenses associated with the utilization of real property should also be approximate to the commercial market. The Government should pay commercial rates for services and supplies required for the day-to-day operation and maintenance of real property assets.

Principle #6.—Maximize Use Among Agencies

The maximum utility of a real property asset can be realized if it is continuously transferred among agencies having mission needs while it is under the control of the Federal Government.

Definition

Real property assets include buildings that can often be used by any number of different Federal agencies. This holds true for Federal buildings that were originally constructed to house the headquarters of an agency, and for leased space that has been acquired for long term use. Regardless of the type of space, the location, the amount of space or what the original tenant was, real property by its nature is something that can be used by any tenant if it can satisfy its space and mission needs.

The policy of the Federal Government is to use real property to its maximum benefit. This includes making every effort to find agencies that can use the property if it is planned to be declared excess. Optimally, a real property asset should be promptly transferred from one agency to another as one agency's need expires and another's begins. This transfer of real property among agencies is a critical measure toward achieving this goal, and its success is based on adequate communication among all Federal agencies, to include GSA as well as all agencies with their own real property authority.

Example

The GSA is a large holder of Federal Government real property. Whenever GSA has property that has been declared excess by one of its customer agencies, it screens it and makes every attempt to backfill the space with another agency before finding it surplus to the needs of the Government. Depending on the needs of GSA's customer agencies, if a property is suitable it will be utilized as quickly as possible.

Federal property that is under the custody and control of other agencies should be dealt with in the same manner. The only way that this can occur, however, is to have communication that will link agencies to one another, as well as establishing an atmosphere of collaborating among the family of Governmentwide agencies that have their own real property authority. At the present time, GSA's Office of Real Property is establishing a real property information clearinghouse which will include excess property for use by all Federal agencies. It is hoped that this database will assist agencies in achieving the maximum utilization of their real property assets, especially in these times of diminished resources.

Principle #7.—Timely Disposal

A Federal real property asset that has no further mission support use by the Federal Government should be disposed of timely and in a manner that best serves the public interest.

Definition

Assuming that a property under the control of the Federal Government has no agency that can use it for any mission support related purpose, and the attempts to find another agency to utilize it have not yielded a user, the real property should be disposed of timely, efficiently, and in a manner that best serves the public interest. The disposal of Federal real property is a very involved and complex task. If properly done, the disposal can result in a smooth transition of ownership and can often produce a return to the Government that is in the best interest of the taxpayer, whether donated at no cost or sold at the highest price the market will bear.

Example

A real property asset that has no mission support potential for use by any agency of the Government should not be held for any appreciable period of time. Assuming there is no future mission related need, the asset should be disposed of as quickly and as expeditiously as possible, and in a manner that best serves the public interest.

Real property disposal is explained in detail in many different public laws, Executive Orders, Congressional mandates and agency policies. Regardless of the authority that the real property disposal falls under, however, the asset should be disposed of in the most efficient way possible. Under certain cases Federally-owned real property can be conveyed to state and local governmental units and non-profit institutions free of cost, and for a variety of public uses such as education, health, park and recreation, and historic monuments. An example of an educational usage would be the conveyance of a former Federal property to a local municipality for the establishment of a high school facility. Although no moneys are generated by such a public benefit transfer, the public interest is served by the means of such a conveyance.

If a property is not being donated through public benefit conveyance, a public sale can be conducted and the property sold to the highest bidder or offeror. As a last resort, if the property is unable to be sold or donated due to age, disrepair or extensive damage, it should be demolished and the land used for another Federal purpose, or disposed of in its own right, while serving the best public interest as well.

Principle #8.—Retain Proceeds From Disposal and Outleasing

The proceeds gained from the disposal of a Federal real property asset, or from outleasing, should be available for use by the agency having custody, control and use of the asset.

Definition

Proceeds that are generated by the disposal of a Federal real property asset,

or from outleasing of space, should be available for use by the agency having custody, control and use of it. Financial incentives should be put in place in order to encourage real property disposal and the outleasing of unused space. In the case of agencies covered under the Federal Property and Administrative Services Act of 1949, as amended (the ''1949 Act''), there is no incentive to dispose or outlease real property when the proceeds go into another fund out of the agencies' control. Likewise, in the case of some landholding agencies that have their own disposal or outleasing authority, there could be increased incentives put into place as well. (There are individual agency exceptions to where proceeds are deposited).

Example

Before real property under the custody, control and use of agencies covered under the 1949 Act can be disposed of, it must first be declared excess by GSA. If an agency has a property that is no longer needed, it is declared excess and screened by GSA in order to find an agency that has a need for it. The property is then transferred to that agency and, if monetary proceeds are generated, they are deposited into the General Fund of the Treasury. Only after it is found that the property has no Federal use is it declared surplus to the needs of the Government and then disposed of by GSA. Pursuant to the Federal Property Management Regulations, if monetary proceeds are generated from the disposal of surplus property, they are deposited into the Land and Water Conservation Fund of the Treasury.

In the case of real property not under the custody, control and use of agencies covered under the 1949 Act, the proceeds from disposal do not necessarily go into the Land and Water Conservation Fund or into the Treasury General Fund. In some cases these agencies have the statutory authority to retain some, if not or all, of the net proceeds from the disposal of their real property assets.

In most cases where agencies have the authority to outlease real property under their custody, control and use, they are not authorized to retain the proceeds.

There is an overwhelming need to increase the incentives to dispose of real property above what is currently in place, even at the potential cost of impacting the Land and Water Conservation Fund. Likewise, there can be uses for real property outside of the Government whereby a controlling agency could outlease space to a private sector tenant for a limited period of time. Federal agencies will be more willing to dispose of real property assets, or outlease them, if they know that the proceeds will be retained, rather than placed in a fund that is beyond their control. This is critical in today's changing environment and in times of increasingly short supply of resources.

Principle #9.—Professional Training

Federal employees should be given the training needed to perform their jobs at the highest level of professionalism, and in order to utilize models and other analytical tools for optimizing their real property asset management decisions.

Definition

The tasks associated with real property asset management are many and varied. Not only does asset management include the day-to-day management of the physical property representing the asset, it also involves the management of the cash flow generated by the asset, the long term strategic planning for capital improvements that the asset may require, and the arranging for continued use and occupancy of the asset. In the case of Federally-controlled real property assets, this includes finding the appropriate Government agency for buildings and space that are underutilized or in the vacant space inventory.

Training is a means to achieve expertise, and so is job rotation and on-the-job learning. Federal personnel involved in real property asset management should be highly trained in a variety of areas. These areas of expertise are taught in recognized industry courses that specialize in all aspects of real property asset management, such as the courses offered by the Building Owners and Managers Association and other appropriate organizations.

With the proper training and guidance, the agencies of the Federal Government will have employees who are current and competent experts in the real property asset management field, who can discuss real property asset management related issues with anyone, and who can deal with the long range planning and evaluation of assets for the maximum use and benefit to the public.

Example

Employees of any Federal Government agency directly involved with real property asset management can take a variety of courses that are available to professionals in the industry. These courses specialize in all of the different areas of real property asset management. Combined with hands-on experience, the Government's real property asset managers can and should be on a level with any asset manager in private industry. This is even more important in these times of increasing responsibilities of asset managers, as well as with the personnel and resource reductions that are taking place in Government.

[FR Doc. 96–26051 Filed 10–15–96; 8:45 am]

BILLING CODE 6820–23–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Agency Information Collection; Submission for OMB Review

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501) 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; it includes the actual data collection instruments.

DATES: Comments must be submitted on or before November 15, 1996.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection to the following addresses: Office of Information and Regulatory Affairs, OMB Attn: Desk Officer for Education, 725 17th Street, NW; Washington, DC 20006 or Mrs. Tonji Wade Barrow, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW, Washington, DC 20006. Electronic comments can be sent directly to hstsf@access.digex.com. Copies of the NIF may be obtained by writing to the Foundation or from the World Wide Web [http://www.act.org/truman]. All written comments will be available for public inspection at the Foundation at the address given above from 8:00 a.m. to 5:00 p.m., Monday through Thursday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mrs. Tonji Barrow, Senior Program Assistant, telephone 202–395–7430.

I. Information Collection Request

The foundation is seeking comments on the following request.

Title: Nominee Information Form, OMB No. 3200–0004. Approved for use through 11/30/96.

Affected entities: Parties affected by this information collection are college juniors who wish to compete for Truman Scholarships.

Abstract: PL 93–642 authorizes the Foundation to provide for the conduct of a national competition for the purpose of selecting Truman scholars. The purpose of this information collection through the NIF is to enable a committee to review the credentials of applicants and to determine which appear to meet the selection criteria and should be designated as Finalists and invited to an interview. For persons invited to the interview, the information collection through the NIF helps the Truman Scholars Selection Panel make its decisions after interviewing the Finalists. Data collected include: schools attended; campus, community and government activities and services; awards received; leadership and public service interests and ambitions; graduate study plans; and other information that candidates deem significant. It also includes a 700–800-word analysis of a public policy issue chosen by the applicant to demonstrate analytical and writing skills. The data are used only by Foundation staff or selection committees except for items that may be used to publicize the program, to provide examples to help candidates in future years, or aggregated for educational research purposes.

Likely respondents: The likely respondents consist of 800–900 college juniors who wish to receive support from the Foundation to attend graduate school in preparation for careers in the public service. Each applicant is required to submit this application only once. He/she is also required to provide four letters of recommendation including one from the Truman Scholarship Faculty Representative at his/her institution:

Burden Statement: The current total annual respondent burden is estimated at 20,000 hours based on 800 applicants spending 25 hours each on the application and the public policy analysis.

II. Frequency of Collection

Annual.

III. Public Docket

A public version of this record, including printed, paper versions of electronic comments is available for inspection from 8:00 a.m. to 5:00 p.m., Monday through Thursday, excluding legal holidays. The public record is located at 712 Jackson Place, NW, third floor, Washington, DC 20006.

Dated: October 10, 1996.

Louis H. Blair,

Executive Secretary, Harry S. Truman Scholarship Foundation.

[FR Doc. 96–26427 Filed 10–15–96; 8:45 am]

BILLING CODE 6820–AP–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Contraception and Infertility Research Loan Repayment Program (CIR–LRP)

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development, (NICHD), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information on collection listed below. This proposed information collection was previously in the Federal Register on September 21, 1995, page 49000 and allowed 60 days for public comment. No public comments were received. The purposes of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: *Title:* Contraception and Infertility Research Loan Repayment Program. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* The information proposed for collection will be used by NICHD to determine an applicant's eligibility for participation in the CIR–LRP. It will enable the NICHD to select qualified individuals for participation in the program, and to deliver eligible benefits.

The annual burden estimates are as follows:

TABLE

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Applicants	50	1	5.5	275
Lender	200	1	0.5	100
State/Other Entity	8	1	0.5	4

The annualized cost to respondents is estimated at $8,460. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUESTS FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden to the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Louis V. DePaolo, Ph.D., Reproductive Sciences Branch, Center for Population Research, NICHD, NIH, Building 61E, Room 8B01, Bethesda, Maryland 20892–7510.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received within on or before November 15, 1996.

Dated: October 9, 1996.

Benjamin E. Fulton,

Executive Officer, NICHD.

[FR Doc. 96–26412 Filed 10–15–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting George H. Keller, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 246; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application.

A Method of Detecting Transmissible Spongiform Encephalopathies

G. Hsich, C.J. Gibbs, K. Kenney, M.G. Harrington (NINDS)
Filed 5 Apr 96
DHHS Reference No. E–055–96/0

Improved assays for the detection of transmissible spongiform encephalopathies (TSEs) in humans and non-human mammals have been developed. The assays involve detecting the presence or absence of 14–3–3 proteins in cerebrospinal fluid. Elevated levels of these proteins are indicative of TSEs, in particular Creutzfeldt-Jacob disease in humans and animals with these diseases. This invention is available for licensing on a non-exclusive basis.

Dated: October 2, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–26410 Filed 10–15–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent applications referenced below may be obtained by contacting Larry Tiffany, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application.

Recombinant Pseudomonas Exotoxin With Increased Activity

IH Pastan, DJ Fitzgerald (NCI)
Serial Nos. 07/901,709 filed 18 Jun 92 and 08/405,615 filed 15 Mar 95 (FWC of 07/901,709); also 08/463,480 and 08/461,234 filed on 05 Jun 95 (DIVs of 08/405,615)

Development of novel recombinant *Pseudomonas* exotoxin molecules with higher target cell toxicity and less nonspecific cell toxicity offers to significantly improve the effectiveness of immunotherapies against virally infected and cancer cells. Toxins attached to growth factors, antibodies, and other cell-targeting molecules can be used to kill harmful cells bearing specific surface receptors or antigens. One promising source of an effective therapeutic toxin is *Pseudomonas* exotoxin (PE) A, an extremely active monomeric protein that is excreted by the bacteria Pseudomonas aeruginosa. PE, which causes cell death by inhibiting protein synthesis in eukaryotic cells, contains three structural domains that act in concert to cause cytotoxicity: domain Ia mediates cell binding, domain II is responsible for translocation into the cytosol, and domain III leads indirectly to inhibition of protein synthesis. Unfortunately, immunotoxins made with native PE also attack the liver and—when given in large doses—may produce death due to liver toxicity. This problem has been overcome by cleaving parts of the native endotoxin molecule including all of domain Ia and part of domain II. Such ''pre-cleaved'' PE molecules are smaller in size and, thus, less likely to be immunogenic. They also are better able to penetrate tumors. These new PE molecules are at least 20 times more cytotoxic to target cells and less cytotoxic to normal cells than previously developed PE immunotoxins.

Dated: October 2, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–26411 Filed 10–15–96; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; 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 meeting:

Name of Committee: Board of Scientific Counselors, National Center for Research Resources (NCRR).

Dates of Meeting: November 18–19, 1996.

Time: 8:00 a.m.-until adjournment.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room G, Building 45, Bethesda, Maryland 20892.

Scientific Review Administrator: Dr. Louise Ramm, Deputy Director, National Center for Research Resources, Building 12A, Room 4011, Bethesda, MD 20892, Telephone: (301) 496–6023.

Purpose/Agenda: For the review of the NCRR intramural research program.

In accordance with the provisions set forth in section 552(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: October 8, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–26409 Filed 10–15–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors,

National Institute of Allergy and Infectious Diseases, on December 9–11, 1996. The meeting will be held in the 4th Floor Conference Room, Building 4, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public on December 9 from 10 a.m. to 12:15 p.m. and from 2 p.m. to 4:15 p.m. On December 10 the meeting will be open from 9 a.m. until 11:30 a.m. During the open sessions, the permanent staff of the Laboratory of Infectious Diseases will present and discuss their immediate, past and present research activities.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on December 9 from 8:30 a.m. until 10 a.m., from 12:15 p.m. until 2 p.m., and from 4:15 p.m. until recess; on December 10 from 8:30 a.m. until 9 a.m., and from 11:30 a.m. until recess; and on December 11 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, and disclosure of which would constitute a clearing unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20982, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who play to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Thomas J. Kindt, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 4A31, telephone 301–496–3006, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93–301, National Institutes of Health.)

Dated: October 8, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–26408 Filed 10–15–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–1310–00]

Notice of Intent To Prepare a Planning Analyses/Environmental Assessment

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: The Jackson District Office, Eastern States, through a third party contractor (John Chance & Associates), will prepare a Planning Analyses/Environmental Assessment (PA/EA) for consideration of leasing Federal mineral estate for oil and gas exploration and development. The mineral estate is located on the Louisiana Army Ammunition Plant (LAAP). Consent to lease has been obtained from the Department of Defense, the Surface Managing Agency.

This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in 43 CFR Part 1600.

The public is invited to participate in this PA/EA process by assisting with the identification of issues and criteria to be addressed in the PA/EA.

DATES: Comments relating to the identification of issues and criteria for the PA/EA will be accepted for 30 days from the date of publication of this notice.

ADDRESSES: Send written comments to John E. Chance & Associates, Inc., Attention Steve Ellsworth, 200 Dulles Drive, Lafayette, Louisiana.

FOR FURTHER INFORMATION CONTACT: Clay W. Moore, National Environmental Policy Act Coordinator, BLM, Jackson District, 411 Briarwood Drive, Suite 404, Jackson, MS 39206, (601) 977–5400.

SUPPLEMENTARY INFORMATION: The 15,341 acre LAAP is located approximately 15 miles east of Shreveport, Louisiana and five miles west of Minden, Louisiana in Webster Parish. The entire facility is under non-competitive oil and gas lease application. The BLM has responsibility to consider applications to lease Federal mineral estate for oil and gas exploration and development.

Preliminary examination of the LAAP has identified the following issues: (1) The installation mission prohibits drilling within all fenced-in areas around various military facilities and drilling is not allowed in contaminated areas, (2) Wetland, floodplain and riparian areas are present on the LAAP; (3) Suitable habitat for the endangered Red Cockaded Woodpecker (RCW) is present, however, active RCW colonies were not located. A cultural resources survey and a threatened and endangered (T&E) species survey has been completed on the LAAP; (4) Federally designated Wild and Scenic Rivers or Wilderness areas are not located on the LAAP; (5) Lands classified as Farm Lands (prime or unique) are not present on the LAAP, (6) Areas of Critical Environmental Concern (this classification is reserved for lands administered by the BLM) are not located on the LAAP.

The issues noted above could change as a result of input from the public or State and Federal agencies.

Bruce E. Dawson,

District Manager, Jackson.

[FR Doc. 96–26500 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–GJ–M

Bureau of Land Management

[OR–958–0777–54; GP6–0125; OR–19652 (WA)]

Public Land Order No. 7220; Revocation of Secretarial Order dated June 15, 1927; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 11,360 acres of National Park and National Forest System lands for the Bureau of Land Management's Powersite Classification No. 184. The lands are no longer needed for the purpose for which they were withdrawn. This action will open approximately 90 acres to surface entry, which have been and will remain open to mining and mineral leasing. The remaining 11,270 acres are included in other overlapping withdrawals and will remain closed to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: November 15, 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. The Secretarial Order dated June 15, 1927, which established Powersite Classification No. 184, is hereby revoked in its entirety:

Willamette Meridian

Olympic National Park

T. 26 N., R. 6 W., unsurveyed,
Secs. 4, 8, 9, 16, 17, 18, 19, and 20, every smallest legal subdivision and portion of which, when surveyed will be within ¼ of a mile of the Elwha River.
T. 27 N., R. 6 W., unsurveyed,
Secs. 4, 5, 8, 9, 16, 17, 20, 21, 27, 28, 33, and 34, every smallest legal subdivision and portion of which, when surveyed will be within ¼ of a mile of the Elwha River.
T. 28 N., R. 6 W., unsurveyed,
Secs. 7, 17, 18, 19, 20, 29, 30, 32, and 33, every smallest legal subdivision and portion of which, when surveyed will be within ¼ of a mile of the Elwha River.
T. 26 N., R. 7 W., unsurveyed,
Sec. 24, every smallest legal subdivision and portion of which, when surveyed will be within ¼ of a mile of the Elwha River.
T. 28 N., R. 7 W., unsurveyed,
Secs. 2, 3, 4, 11, 12, and 13, every smallest legal subdivision and portion of which, when surveyed will be within ¼ of a mile of the Elwha River.
T. 29 N., R. 7 W.,
Sec. 4, lot 3;
Sec. 5, NE¼ and SW¼SE¼;
Sec. 9, W½;
Sec. 16, unsurveyed NW¼SW¼;
Sec. 17, E½SE¼ and unsurveyed SE¼NW¼;
Sec. 28, unsurveyed SW¼;
Sec. 29, E½NW¼ and SW¼SE¼;
Sec. 32, unsurveyed E½NE¼;
Sec. 33, unsurveyed.
T. 30 N., R. 7 W.,
Sec. 33, lot 10, and those portions of lots 6, 8, and 9 lying within the Olympic National Park and Olympic Wilderness boundaries.

Olympic National Forest

T. 30 N., R. 7 W.,
Sec. 33, lot 3, and those portions of lots 6, 8, and 9 lying outside Olympic National Park and the Olympic Wilderness boundaries.

The areas described aggregate approximately 11,360 acres in Clallam and Jefferson Counties.

2. At 8:30 a.m., on November 15, 1996, those lands described as lot 3 and those portions of lots 6, 8, and 9, sec. 33, T. 30 N., R. 7 W., lying outside the boundary of the Olympic National Park and Olympic Wilderness, will be opened to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 15, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands described in Paragraph 1, except as provided in Paragraph 2, are included in the Olympic National Park and the Olympic Wilderness Area Withdrawals and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Dated: October 2, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–26394 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–33–P

[UT–050–1020–00]

Notice of Intent To Amend Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to amend the San Rafael Resource Management Plan of Moab Field Office, Bureau of Land Management, Utah.

ACTION: This notice is intended to inform the public that the Bureau of Land Management intends to consider a proposed amendment to the San Rafael Resource Management Plan. This proposed amendment will consider the voluntary relinquishment and retirement of Animal Unit Months (AUMs) associated with the Horseshoe South grazing allotment.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (in coordination with the permittee on the Horseshoe Allotment and a land use conservation group) is proposing to relinquish and permanently retire the existing allotment AUMs for the long term benefit of watershed and wildlife resources. Preliminary issues/impacts that have been identified to be addressed include the following: (1) Economic impacts as a result of the loss for AUMs for the purpose of grazing; (2) impact to watershed values as a result of the elimination of permanent grazing; and (3) impacts to wildlife and associated habitat resulting from the re-allocation of AUMs from livestock to wildlife.

Public participation is being sought at this time to ensure that the proposed amendment and associated environmental analysis considers all reasonable issues, alternatives, problems and concerns relative to the proposed action.

DATES: The comment period for this proposed amendment will commence with the publication of this notice. Comments must be submitted on or before November 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Dave Henderson, Area Manager, Henry Mountain Resource Area, 150 East, 900 North, Richfield, Utah at 801–896–8221.

G. William Lamb,

State Director, Utah.

[FR Doc. 96–26395 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–DQ–M

[MT–960–1990–00–CCAM; MTM 84500]

Correction

In notice document 96–24144 appearing on pages 49480–1 in the issue of Friday, September 20, 1996, make the following correction:

In the description on page 49481 under Federal Lands, ''T. 15 E.'' should read ''T. 8 S., R. 15 E.''

Dated: October 2, 1996.

Daniel T. Mates,

Acting Deputy State Director, Division of Resources.

[FR Doc. 96–26501 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–DN-P

National Park Service

San Francisco Maritime National Historical Park Advisory Commission Meeting

Agenda for the October 17, 1996 Public Meeting of the Advisory Commission for the San Francisco Maritime National Historical Park

Public Meeting Fort Mason, Building F 10:00 a.m.—Noon

10:00 a.m. Welcome—Neil Chaitin, Chairman
Opening Remarks—Neil Chaitin, Chairman, William G. Thomas, Superintendent
10:15 a.m. Advisory commission review of public comments on the General Management plan
Advisory Commission Recommendations for adoption based on public comments.
11:30 a.m. Public comments and questions
11:45 a.m. Agenda Items/Date for next meeting

William G. Thomas,

Superintendent.

[FR Doc. 96–26385 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–70–P

Petroglyph National Monument Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Petroglyph National Monument Advisory Commission will be held at 9:00 a.m., on Friday, November 15, 1996, at the Sheraton Old Town Hotel, 800 Rio Grande Boulevard N.W., Albuquerque, New Mexico.

The Petroglyph National Monument Advisory Commission was established pursuant to Public Law 101–313, establishing Petroglyph National Monument, to advise the Secretary of the Interior on the management and development of the monument and on the preparation of the monument's general management plan.

Matters to be discussed at this meeting include:

Introduction of Commission members and guests
Superintendent's Report
Status report on the General Management Plan
New Business
Public Comment

The meeting will be open to the public. Any member of the public may file a written statement concerning the matters to be discussed at the Commission meeting with the Superintendent.

Persons who wish further information concerning the meeting, or who wish to submit written comments may contact Judith Cordova, Superintendent, Petroglyph National Monument, 6001 Unser Boulevard N.W., Albuquerque, New Mexico 87120, telephone (505) 899–0205.

Minutes of the Commission meeting will be available for public inspection six weeks after the meeting, at Petroglyph National Monument Headquarters.

Dated: October 8, 1996.

Judith Cordova,

Superintendent, Petroglyph National Monument.

[FR Doc. 96–26439 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 5, 1996. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by October 31, 1996.

Carol D. Shull,

Keeper of the National Register.

COLORADO

Chaffee County

Corbin, E.W., House, 303 E. 5th St., Salida, 96001239

Denver County

Berkeley School, 5025—5055 Lowell Blvd., Denver, 96001237

St. Dominic's Church, 3005 W. 29th Ave., Denver, 96001236

El Paso County

Colorado Springs Public Library—Carnegie Building, 21 W. Kiowa St., Colorado Springs, 96001238

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

East Corner Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 100 ft. E of jct. of Eastern and Southern Aves., Washington, 96001249

North Corner Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 1880 block of East-West Hwy., Washington, 96001258

Northeast No. 2 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 6980 Maple Ave., NW, Washington, 96001257

Northeast No. 3 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 144 ft. NW of jct. of Eastern Ave. and Chillum Rd., Washington, 96001256

Northeast No. 4 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 5400 Sargent Rd., Washington, 96001255

Northeast No. 5 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 4609 Eastern Ave., Washington, 96001254

Northeast No. 6 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 3601 Eastern Ave., Washington, 96001253

Northeast No. 7 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) Ft. Lincoln Cemetery, Washington, 96001252

Northeast No. 8 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) Kenilworth Aquatics Gardens, NW of jct. of Eastern and Kenilworth Aves., Washington, 96001251

Northeast No. 9 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 919 Eastern Ave., Washington, 96001250

Northwest No. 4 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 5906 Dalecarlia Pl., NW, Washington, 96001241

Northwest No. 5 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) Dalecarlia Reservoir, 600 ft. W of Dalecarlia Parkway and 300 ft SE of concrete culvert, Washington, 96001240

Northwest No. 6 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 150 ft. NE of jct. of Park and Western Aves., NW, Washington, 96001262

Northwest No. 7 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 5600 Western Ave., Washington, 96001261

Northwest No. 8 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 6422 Western Ave., Washington, 96001260

Northwest No. 9 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) Rock Creek Park, approximately 165 ft. NW of the centerline of Daniel Rd. and 5 ft. SE from edge of 2701 Daniel Rd., Washington, 96001259

Southeast No. 1 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 30 ft. S of jct. of Southern Ave. and D St., Washington, 96001248

Southeast No. 2 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 4245 Southern Ave., Washington, 96001247

Southeast No. 3 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 3908 Southern Ave., Washington, 96001246

Southeast No. 5 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 280 ft. NE of jct. of Southern Ave. and Valley Terrace, Washington, 96001245

Southeast No. 6 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 901 Southern Ave., Washington, 96001244

Southeast No. 7 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) 25 ft. NE of jct. of Southern Ave. and Indian Head Rd., Washington, 96001243

Southeast No. 9 Boundary Marker of the Original District of Columbia (Boundary Markers of the Original District of Columbia MPS) .225 mi. S of Oxon Cove Br. and 420 ft. E of Shepherd Pkwy., Washington, 96001242

LOUISIANA

Avoyelles Parish

Louisiana Railway and Navigation Company Depot, Jct. of Depot and Cleco Sts., Mansura, 96001264

West Baton Rouge Parish

Allendale Plantation Historic District, Jct. of N. River Rd. and Allendale Rd., Port Allen vicinity, 96001263

MISSISSIPPI

Alcorn County

Bynum, Dr. Joseph M., House, 48 S. Front St., Rienzi, 96001268

Copiah County

Rea, Dr. Robert W., House (Copiah County MPS) 1034 Church St., Wesson, 96001267

Hancock County

Onward Oaks (Bay St. Louis MRA) 972 S. Beach Blvd., Bay St. Louis, 96001265

Union County

New Albany Downtown Historic District, Roughly bounded by W. and E. Main, Camp St., and former St. Louis and San Francisco RR tracks, New Albany, 96001266

NEW YORK

Putnam County

Manitoga (Hudson Highlands MRA) Jct. of NY 9D and Manitou Rd., Garrison, 96001269

[FR Doc. 96–26455 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–70–P

Notice of Inventory Completion for Native American Human Remains from Hawaii in the Possession of the University of Kansas, Museum of Anthropology, Lawrence, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains from Hawaii in the possession of the Museum of Anthropology, University of Kansas, Lawrence, KS.

A detailed assessment of the human remains was made by Museum of Anthropology professional staff in consultation with representatives of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei.*

Prior to 1947 human remains representing three individuals were donated to the Museum of Anthropology by Mr. L.A. Walworth. No known individuals were identified. There are no associated funerary objects.

Accession records list these human remains as being collected from the ''battle field of 1820, Isle of Kanai (sic), belonging to the O'ahu tribe, Hawaii.'' Representatives of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei* indicate that Native Hawaiian were involved in a battle on the island of Kaua'i in 1825, not 1820. Documentation on this battle is mentioned in, *Ruling Chiefs of Hawaii* by Samuel M. Kamakau, The Kamehameha Schools Press, Honolulu, 1992.

Based on the above mentioned information, officials of the Museum of Anthropology, University of Kansas have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the Museum of Anthropology have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, the Office of Hawaiian Affairs and the Kauai/Nihau Island Burial Council.

This notice has been sent to officials of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, the Office of Hawaiian Affairs and the Kauai/Nihau Island Burial Council. Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with these human remains should contact Mary Adair, Museum of Anthropology, University of Kansas, Lawrence, Kansas 66045; telephone (913) 864-4245 before November 15, 1996. Repatriation of the human remains to *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, the Office of Hawaiian Affairs, and the Kauai/Nihau Island Burial Council may begin after that date if no additional claimants come forward.

Dated: October 10, 1996,

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 96–26456 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Pursuant To The Government In The Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 11:00 a.m., Tuesday, October 15, 1996.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The meeting is being held to adopt a voting quorum for a three member Commission. P.L. 104–232 (October 2, 1996).

Earlier notice of this meeting could not be made due to the recent passage of the legislation on October 2, 1996.

AGENCY CONTACT: Pamela Posch, Office of the General Counsel, United States Parole Commission, (301) 492–5959.

Dated: October 10, 1996.

Michael A. Stover,

General Counsel, U.S. Parole Commission

[FR Doc. 96–26657 Filed 10–11–96; 2:46 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,584; Tyler Pipe Co., Tyler, TX
TA–W–32,133; Rau Fastener C., LLC, Providence, RI
TA–W–32,654; Kulicke and Soffa Industries, Inc., Willow Grove, PA
TA–W–32,596; Top This, Inc., Vienna, MO

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–32,634; Trico Products Corp., Buffalo, NY York, SC

TA–W–32,669; Prairie Meat Packer, Inc., Cardington, OH

TA–W–32,585; Dale Electronics, Bradford Electrics, Bradford, PA

TA–W–32,589; Northern Engraving Corp., Lacrosse, WI

TA–W–32,603; Allergan, Inc., Spincast Department, Waco, TX

TA–W–32,572; Pauline Knitting Industries, Salisbury, NC

TA–W–32,683; Newport Shrimp Co., Inc., Newport, OR

TA–W–32,592; Evanite Fiber Corp., Submicro Div., Corvallis, OR

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,765; Ryder Scott Co., Petroleum Engineer, Denver, CO

TA–W–32,701; United Cities Gas Co., Independence, KS

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–32,568; Globe Netallurgical, Inc., Niagara Falls, NY

TA–W–32,769; Seaboard Oil Co., Midland, TX

TA–W–32,594; C-Cor Electronics, Inc., Reedsville, PA

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–32,635; Lamson & Sessions Co., Aurora, OH

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–32,582; OMSC Shirt Corp., Morgantown, WV: July 12, 1995.

TA–W–32,575; Dean Foods Vegetable Co., Norcal-Crosetti (NC) Foods, Watsonville, CA: June 28, 1995.

TA–W–32,621; Tri Tech Tool & Design Co., Inc., South Bound Brook, NJ: May 15, 1995.

TA–W–32,656; Dynamic Axle Co., Rancho Dominguez, CA: August 7, 1995.

TA–W–32,614; International Rectifiers, Hexfet America Facility, Temecula, CA: June 17, 1995.

TA–W–32,675; McQueeney Sportswear, Inc., Millwork, AL: June 19, 1995.

TA–W–32,684; J & J Manufacturing/AKA Johnnie Cutting and Sewing, Hialeah, FL: July 25, 1995.

TA–W–32,698; Roundwood Timer Products, Inc., Chemult, OR: August 10, 1995.

TA–W–32,599; Pella Manufacturing, Inc., Pella, IA: July 18, 1995.

TA–W–32,605 & A; Keystone Transformer Co., Pennsburg, PA and Trumbauersville, PA: July 18, 1995.

TA–W–32,629; Burlington Resources, Meridian Oil Co., Englewood, CO: July 30, 1995.

TA–W–32,620; Shell Chemical Co., Paint Pleasant Polyester Plant, Apple Grove, WV: July 19, 1995.

TA–W–32,612; Northwest Alloys, Inc., Addy, WA: July 18, 1995.

TA–W–32,740; Rano Cutting Corp., New York, NY: August 27, 1995.

TA–W–32,660; Amoco Exploration and Production, National Gas Group, Natural Gas Liquids Business Unit, & E & P Technology Group Operation in the Following States: B; AL, C; AR, D; CO, E; KS, F; LA, G; MI, H; MS, I; NM, J; OK, & K; TX: August 6, 1995.

TA–W–32,660; Amoco Exploration and Production, Headquartered in Chicago, IL and A; Houston, TX, & Operating in the Following Units in The Following States: US Operations Group, Permian Basin Business Unit, Southeast Business Unit, B; AL, C; AR, D; CO, E; KS, F; LA, G; MI, H; MS, I; NM, K; TX & Tulsa Research Center, Operating in OK: June 9, 1996.

TA–W–32,660; Amoco Exploration and Production, Offshore Business Unit, Operating at the Following States: L; LA, & M; TX: June 9, 1996.

TA–W–32,660; Amoco Exploration and Production, Mid-Continent Business Unit, Northwestern U.S. Business Unit and Southern Rockies Business Unit Operating in The Following States: N; CO, O; KS, P; NM, Q; OK, R; TX, S; UT, T; WY, U; AK; June 9, 1996.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August & September, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof (including workers in any agricultural firm or appropriate subdivision thereof), have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or sub division have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01197; Newport Shrimp Co., Inc., Newport, OR

NAFTA–TAA–01212; Tell City Chair Co., Tell City, IN

NAFTA–TAA–01184; Teledyne Tran Aeronautical, Allegheny Teledyne Div., San Diego, CA

NAFTA–TAA–01175 & A; Lukens, Inc. (AKA Washington Steel), Washington, PA & Houston, TX

NAFTA–TAA–01180; Jo-Nez Apparel, Inc., Tompkinsville, KY

NAFTA–TAA–01208; C.J. Enterprises, Morganton, NC.

NAFTA–TAA–01187; Whirlpool Corp., Evansville, IN

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–01199; Casa Brand, Inc., Los Angeles, CA

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01193; Robertshaw Controls Co., Appliance Controls Div., Ellijay, GA: August 12, 1995.

NAFTA–TAA–01152; Shell Chemical Co., Point Pleasant Polyester Plant, Apple Grove, WV: July 19, 1995.

NAFTA–TAA–01206; Go/Dan Industries, Peru, IL: July 26, 1995.

NAFTA–TAA–01201; Jar-Car Manufacturing, El Paso, TX: July 24, 1995.

NAFTA–TAA–01123; Flexel, Inc., Tecumseh, KS: July 9, 1995.

NAFTA–TAA–01209; Lambda Electronics, Inc., Tucson, AZ: August 16, 1995.

NAFTA–TAA–01202; U.S. Colors, Inc., Rocky Mount, NC: August 15, 1995.

NAFTA–TAA–01182; Clothes Connection, Santa Ana, CA: August 8, 1995.

NAFTA–TAA–01178; Anchor Glass Container Corp., Zanesville Mould Div., Zanesville, OH: August 9, 1995.

NAFTA–TAA–01207; Plastiflex Co., Inc., Centralia, IL: August 21, 1995.

NAFTA–TAA–01171, A,B,C; Strick Corp., Fairless Hills, PA, Berwick, PA, Danville, PA, Monroe, IN: August 5, 1995.

NAFTA–TAA–01150 & A; Keystone Transformer Co., Pennsburg, PA and Trumbauersville, PA: July 18, 1995.

I hereby certify that the aforementioned determinations were issued during the month of September, 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 4, 1996.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26485 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,318]

Jaunty Textile, a Division of Advanced Textile Composites, Incorporated, Scranton, PA; Notice of Revised Determination on Reconsideration

On July 3, 1996, the Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to all workers of Jaunty Textile, a Division of Advanced Textile Composites, Incorporated located in Scranton, Pennsylvania. The notice was published in the Federal Register on August 2, 1996 (61 FR 40453).

Investigation findings show that the workers produced woven synthetic fabrics. The workers were denied TAA because the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met.

By letter of August 2, 1996, a company official requested administrative reconsideration of the Department's findings. The company provided new information regarding a major customer, reducing purchases from Jaunty, that had been inadvertently excluded from their list of customers. On reconsideration, the Department surveyed the customer. New investigation findings on reconsideration show that the customer began importing synthetic woven textiles in 1996.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Jaunty Textile, a Division of Advanced Textile Composites, Incorporated, Scranton, Pennsylvania were adversely affected by increased imports of articles like or directly competitive with synthetic woven textiles produced at the subject firm.

''All workers of Jaunty Textile, a Division of Advanced Textile Composites, Incorporated, Scranton, Pennsylvania, who became totally or partially separated from employment on or after May 1, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C., this 30th day of September 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26490 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,601]

Morgan Lumber Company, Jackson, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 29, 1996, in response to a petition which was filed on July 17, 1996, on behalf of workers at Morgan Lumber Company, Jackson, Tennessee.

The petitioning company has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 27th day of September 1996.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26488 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,623]

Oakloom Clothes, Inc., Baltimore, MD; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 5, 1996 in response to a worker petition which was filed on August 5, 1996 on behalf of workers at Oakloom Clothes, Inc., Baltimore, Maryland.

All production workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 1st day of October, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26487 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,532; TA–W–32,532D]

Orbit Industries, Incorporated, Helen, GA and Penline Garment Company, Toccoa, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the

Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 9, 1996, applicable to all workers of Orbit Industries, Incorporated located in Helen, Georgia. The notice was published in the Federal Register on September 13, 1996 (61 FR 48504).

At the request of the company, the Department reviewed the certification for workers of the subject firm. Based on new information received by the company, the Department is amending the certification to cover workers at the affiliate plant of the subject firm, Penline Garment Company, Toccoa, Georgia. The production facility closed September 27, 1996. The workers at Penline Garment were engaged in employment related to the production of apparel.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of apparel.

The amended notice applicable to TA–W–32,532 is hereby issued as follows:

''All workers of Orbit Industries, Incorporated, Helen, Georgia (TA–W–32,532) and Penline Garment Company, Toccoa, Georgia (TA–W–32,532D) who became totally or partially separated from employment on or after June 24, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 30th day of September 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26491 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,388]

Snap-On, Incorporated; Mt. Carmel, IL; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated August 26, 1996, the International Association of Machinists and Aerospace Workers (IAM&AW) requested administrative reconsideration of the subject petition for trade adjustment assistance (TAA). The denial notice was signed on July 29, 1996 and published in the Federal Register on August 26, 1996 (61 FR 43791).

The initial investigation findings showed that the workers produced hand tools such as ratchets, pliers and miscellaneous wrenches. The Department's denial was based on the fact that the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met. Company officials indicated that a significant portion of the layoffs were attributable to the shift of a torque wrench production line in early 1996, from the Mt. Carmel plant to an affiliated facility located in Industry, California. The corporate decision to shift production to another domestic location would not form the basis for a worker certification.

The IAM&AW request for reconsideration enclosed numerous statements from workers of the subject firm describing an all employee meeting where a company official stated that imports of some hand tools from abroad were increasing in quality and decreasing in price, and thus, impacting workers jobs in Mt. Carmel.

Another test of the ''contributed importantly'' criterion is generally demonstrated through a survey of the workers' firm's customers. However, in this case the hand tools produced by Snap-On are mass marketed through a dealer network and sold to independent automobile mechanics. Therefore, a customer survey was not feasible. The Department must rely on import statistics to determine import impact on workers of the subject firm.

Based on petitioners allegations, the Department reviewed and updated the trade statistics for wrenches and pliers. Aggregate U.S. imports of wrenches declined from 1994 to 1995 and in the twelve-month period of June through May 1995–1996 compared to the same twelve months of 1994–1995. Aggregate U.S. imports of pliers rose slightly from 1994 to 1995 but decreased in the twelve-month period of June through May 1995–1996 compared to the same twelve months of 1994–1995.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance under Section 223 of the Trade Act to workers and former workers of Snap-On, Incorporated, Mt. Carmel, Illinois.

Signed at Washington, DC, this 1st day of October 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26489 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Unemployment Insurance Benefit Accuracy Measurement Program

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. With this notice, the Employment and Training Administration is soliciting comments concerning a proposed pilot test of collecting information on the accuracy of denials of Unemployment Insurance (UI) benefit eligibility. A copy of the proposed information collection request can be obtained by contacting the employee named below in the contact section of this notice.

DATES: Written comments must be submitted on or before December 16, 1996.

Written comments should:

—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 submission of responses.

ADDRESSES: Burman H. Skrable, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of

Labor, Room S–4522, 200 Constitution Avenue, N.W., Washington, DC 20210, 202–219–5922 (this is not a toll-free number); FAX, 202–219–8506; Internet: eta.sao.skrableb@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1987, all State Employment Security Agencies (SESAs) except the Virgin Islands have been required by regulation at 20 CFR 602 to operate a Benefits Quality Control (BQC) program to assess the accuracy of their UI benefit payments. The Department's authority is found at Sections 303(a)(1), 303(a)(6) and 303(b)(1) of the Social Security Act. The methodology of this program, renamed Benefit Accuracy Measurement (BAM) in 1996, requires each State draw to a weekly sample of UI payments. Annual samples presently average slightly over 800 cases per State, with a range of 480 to 1800. A specially trained staff of investigators reviews agency records and contacts the claimant, employers and third parties to verify all the information pertinent to the benefit amount for the sampled week. Using the verified information, the investigators determine whether the benefit payment were proper or improper in accordance with State law and policy. Any differences between the amount BAM determines proper and the actual payment is an underpayment or overpayment error and is coded into an automated database, which resides on each State's computer. Data on error types, causes and responsibilities are also entered into the database. This information is used by the State and DOL to estimate the extent of mispayments, monitor program quality, guide possible future program improvements, inform system stake-holders and perform various policy analyses. The program is operated under Office of Management and Budget (OMB) approval number 1205–0245; approval expires September 30, 1999.

To date, the nationwide BAM program has only assessed the accuracy of decisions to pay UI benefits. In 1986–87, five States measured the accuracy of decisions denying UI benefits eligibility using the BQC methodology in a one-year pilot test.

The test covered monetary denials and nonmonetary denials at the separation and nonseparation decision levels. Although most pilot States showed relatively high rates of error in their denial determinations, resource considerations and other priorities precluded the Department from expanding the pilot effort or expanding the BQC program to include denials. Since that time, however, the Department has been urged by several groups to measure denied UI benefit claims' accuracy in the States. The groups have included organized labor, employee rights legal support groups, the Department's Office of Inspector General, and, most recently, the Vice President's National Performance Review.

In fall 1995, after a two-year effort, a joint workgroup of senior SESA managers and Federal staff recommended several changes in the way UI operational performance was measured and improved. The Department has accepted most of the recommendations and is now implementing them under the rubric of UI Performs. One of these is to add the measurement of denied claim accuracy to the BAM program. Because of the time elapsed and changes in State environments since the first pilot, the Department deems it prudent to conduct a new pilot to guide implementation of this measure.

II. Current Actions

This is a request for OMB approval [under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A))] to conduct a pilot test of applying the BAM sample verification methodology to ascertain the accuracy of SESA decisions that deny UI benefits. This will be an operational pilot test of measuring denied claim accuracy, intended to identify costs and operational difficulties and develop workable procedures and software for a nationwide program.

The salient characteristics of the pilot are as follows:

- Five States, selected from volunteers, representing a range of geography, size and eligibility provisions of State law and policy. The States are Nebraska, New Jersey, South Carolina, West Virginia and Wisconsin.
- Separate samples of approximately 200 each will be selected from State universes of monetary denials, and nonmonetary denials for separation and nonseparation reasons. Between the claimant, State staff, employers and third parties, it is expected that respondents per sampled case will average 3.3, or 1,980 per State in the one-year pilot.
- All samples will be investigated using the BAM procedures in which records are reviewed and interested parties are contacted to verify or obtain additional information pertinent to the decision.
- In addition, the two kinds of nonmonetary denials will be independently assessed using the Quality Performance Index instrument to see whether this records-only review is a workable alternative to BAM's more costly den-novo factfinding.

Type of Review: New.

Agency: Employment and Training Administration.

Title: Unemployment Insurance Benefit Accuracy Measurement Program Pilot Test.

Timing: May 1997–May 1998.

Recordkeeping: States are required to follow their State laws regarding public record retention in retaining BAM records.

Affected Public: Individuals; business; other for-profit/not-for-profit institutions; farms; Federal, State, Local, or Tribal Governments.

Total Respondents: 9,900 (5 States/1,980 per State).

Frequency: Weekly.

Total Responses: 9,900 (5 States/1,980 per State).

Estimated Time Per Response: 1.65 hours.

Total Burden Hours: 16,320 hours.

Total Burden Cost (capital/startup): $457,500.

Total Burden Cost (operating/maintaining): $413,315.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: October 10, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 96–26493 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act: Indian and Native American Employment and Training Programs; List of Allocations by Grantee for Title II–B and Title IV–A Funds Received Under the Job Training Partnership Act for 1996

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: A list of current JTPA section 401 grantees receiving JTPA title II–B funds, and the amounts funded under title II–B for Calendar Year (CY) 1996, can be found in Appendix No. 1. The same list of grantees and the amounts funded under title IV–A of JTPA for Program Year (PY) 1996 can be found in Appendix No. 2.

SUMMARY: Pursuant to the requirements at section 162(d) of the amended Act, the Department hereby publishes the final allocation figures for JTPA section 401 Indian and Native American grantees for 1996, by title.

INQUIRIES: Any inquiries concerning these allocations should be addressed to Mr. Thomas Dowd, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, Room N–4641 FPB, 200 Constitution Avenue, NW., Washington, DC 20210.

Note: Current section 401 grantees discovering any discrepancies between the above figures and the most recent Notice of Obligation (NOO) received from the Department should immediately report such discrepancies to their DINAP Federal Representative Team or to the Grant Officer, James DeLuca.

Signed at Washington, DC, this 10th day of October, 1996.

Thomas M. Dowd,

Chief, Division of Indian and Native American Programs.

Lois A. Engel,

Acting Director, Office of Special Targeted Programs.

James C. DeLuca,

Grant Officer, Office of Grants and Contracts Management, Division of Acquisition and Assistance.

BILLING CODE 4510–30–P

Appendix No. 1

U.S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American CY 1996 JTPA Title II-B Allotments

State			Grantee	Grant Number	Administrative	Program	Total
			National Total		1,704,925	9,661,207	11,366,132
1	1	AL	Inter-Tribal Council of Alabama	B-5133-5-00-81-55	0	0	0
2	1	AL	Poarch Band of Creek Indians	B-5132-5-00-81-55	548	3,105	3,653
3	2	AK	Aleutian/Pribilof Islands Association	B-5134-5-00-81-55	3,197	18,114	21,311
4	2	AK	Arctic Slope Native Association	B-5126-5-00-81-55	3,171	17,966	21,137
5	2	AK	Association of Village Council Presidents	B-5135-5-00-81-55	23,382	132,495	155,877
6	2	AK	Bristol Bay Native Association	B-5136-5-00-81-55	6,720	38,077	44,797
7	2	AK	Central Council of Tlingit and Haida	B-5137-5-00-81-55	19,520	110,610	130,130
8	2	AK	Chugachmiut	B-5139-5-00-81-55	2,884	16,340	19,224
9	2	AK	Cook Inlet Tribal Council	B-5138-5-00-81-55	32,946	186,692	219,638
10	2	AK	Kawerak Incorporated	B-5140-5-00-81-55	10,412	59,002	69,414
11	2	AK	Kenaitze Indian Tribe	B-5141-5-00-81-55	2,858	16,192	19,050
12	2	AK	Kodiak Area Native Association	B-5142-5-00-81-55	3,797	21,516	25,313
13	2	AK	Kuskokwim Native Association	B-5124-5-00-81-55	0	0	0
14	2	AK	Maniilaq Manpower	B-5143-5-00-81-55	8,886	50,351	59,237
15	2	AK	Metlakatla Indian Community	B-5144-5-00-81-55	1,827	10,351	12,178
16	2	AK	Native Village of Barrow	B-5125-5-00-81-55	2,962	16,784	19,746
17	2	AK	Orutsararmuit Native Council	B-5145-5-00-81-55	4,789	27,135	31,924
18	2	AK	Tanana Chiefs Conference, Inc.	B-5146-5-00-81-55	23,018	130,437	153,455
19	4	AZ	Affiliation of Arizona Ind. Cntrs. Inc.	B-5147-5-00-81-55	0	0	0
20	4	AZ	American Indian Association of Tucson	B-5148-5-00-81-55	0	0	0
21	4	AZ	Colorado River Indian Tribes	B-5149-5-00-81-55	4,201	23,808	28,009
22	4	AZ	Gila River Indian Community	B-5150-5-00-81-55	18,515	104,917	123,432
23	4	AZ	Hopi Tribal Council	B-5151-5-00-81-55	12,969	73,494	86,463
24	4	AZ	Inter Tribal Council of Arizona, Inc.	B-5996-6-00-81-55	5,624	31,867	37,491
25	4	AZ	Native Americans for Community Action	B-5153-5-00-81-55	0	0	0
26	4	AZ	Navajo Nation	B-5154-5-00-81-55	281,662	1,596,085	1,877,747
27	4	AZ	Pasqua Yaqui Tribe	B-5155-5-00-81-55	4,736	26,840	31,576
28	4	AZ	Phoenix Indian Center, Inc.	B-5156-5-00-81-55	0	0	0
29	4	AZ	Salt River Pima-Maricopa Indian Council	B-5157-5-00-81-55	6,667	37,782	44,449
30	4	AZ	San Carlos Apache Tribe	B-5158-5-00-81-55	12,683	71,867	84,550
31	4	AZ	Tohono O'Odham Nation	B-5159-5-00-81-55	16,936	95,971	112,907
32	4	AZ	White Mountain Apache Tribe	B-5160-5-00-81-55	16,962	96,119	113,081
33	5	AR	American Indian Center of Arkansas, Inc.	B-5161-5-00-81-55	0	0	0
34	6	CA	American Indian Center of Santa Clara Valley,	B-5162-5-00-81-55	0	0	0
35	6	CA	California Indian Manpower Consortium, Inc.	B-5163-5-00-81-55	18,638	105,613	124,251
36	6	CA	Candelaria American Indian Council	B-5164-5-00-81-55	0	0	0
37	6	CA	Indian Human Resources Center, Inc.	B-5165-5-00-81-55	0	0	0
38	6	CA	Northern CA Indian Development Council, Inc.	B-5166-5-00-81-55	1,242	7,037	8,279
39	6	CA	Quechan Indian Tribe	B-5127-5-00-81-55	2,296	13,013	15,309
40	6	CA	Southern CA Indian Center, Inc.	B-5167-5-00-81-55	0	0	0
41	6	CA	Tule River Tribal Council	B-5168-5-00-81-55	1,553	8,798	10,351
42	6	CA	United Indian Nations, Inc.	B-5169-5-00-81-55	0	0	0
43	6	CA	Ya-Ka-Ama Indian Education & Development	B-5170-5-00-81-55	0	0	0
44	8	CO	Denver Indian Center	B-5171-5-00-81-55	0	0	0
45	8	CO	Southern Ute Indian Tribe	B-5172-5-00-81-55	2,166	12,274	14,440

Appendix No. 1

U.S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American CY 1996 JTPA Title II-B Allotments

	State		Grantee	Grant Number	Administrative	Program	Total
			National Total		1,704,925	9,661,207	11,366,132
46	8	CO	Ute Mountain Ute Indian Tribe	B-5173-5-00-81-55	2,636	14,935	17,571
47	10	DE	Nanticoke Indian Association, Inc.	B-5174-5-00-81-55	0	0	0
48	12	FL *	Florida Governor's Council on Indian Affairs	B-5176-5-00-81-55	0	0	0
49	12	FL	Miccosukee Corporation	B-5177-5-00-81-55	3,211	18,193	21,404
50	12	FL	Seminole Tribe of Florida	B-5178-5-00-81-55	2,805	15,897	18,702
51	15	HI	Alu Like, Inc.	B-5180-5-00-81-55	245,142	1,389,135	1,634,277
52	15	HI	State of HI Dept. of Labor and Industrial Rela	B-5181-5-00-81-55	0	0	0
53	16	ID	Kootenai Tribe of Idaho	B-5182-5-00-81-55	106	601	707
54	16	ID	Nez Perce Tribe	B-5183-5-00-81-55	3,823	21,664	25,487
55	16	ID	Shoshone-Bannock Tribes	B-5184-5-00-81-55	5,049	28,614	33,663
56	18	IN	Indiana American Ind Manpower Council	B-5186-5-00-81-55	0	0	0
57	20	KS	Mid American All Indian Center, Inc.	B-5192-5-00-81-55	0	0	0
58	20	KS	United Tribes of Kansas and S.E. Nebraska	B-5193-5-00-81-55	1,657	9,390	11,047
59	22	LA	Inter-Tribal Council of Louisiana, Inc.	B-5195-5-00-81-55	439	2,488	2,927
60	23	ME	Central Maine Indian Association, Inc.	B-5196-5-00-81-55	0	0	0
61	23	ME	Tribal Governors, Inc.	B-5197-5-00-81-55	4,444	25,185	29,629
62	24	MD	Baltimore American Indian Center	B-5198-5-00-81-55	0	0	0
63	25	MA	Mashpee-Wampanoag Indian Tribal Council, Inc.	B-5199-5-00-81-55	0	0	0
64	25	MA	North American Indian Center of Boston, Inc.	B-5200-5-00-81-55	0	0	0
65	26	MI	Grand Traverse Band of Ottawa & Chippewa I	B-5201-5-00-81-55	457	2,587	3,044
66	26	MI	Inter-Tribal Council of Michigan, Inc.	B-5202-5-00-81-55	5,141	29,131	34,272
67	26	MI *	MI Indian Employment and Training Services, I	B-5203-5-00-81-55	0	0	0
68	26	MI	North American Indian Association of Detroit	B-5204-5-00-81-55	0	0	0
69	26	MI	Potawatomi Indian Nation	B-5205-5-00-81-55	0	0	0
70	26	MI	Sault Ste. Marie Tribe of Chippewa Indians	B-5206-5-00-81-55	6,954	39,409	46,363
71	26	MI	Southeastern Michigan Indians. Inc.	B-5207-5-00-81-55	0	0	0
72	27	MN	American Indian Opportunities Center	B-5208-5-00-81-55	0	0	0
73	27	MN	Bois Forte R.B.C.	B-5209-5-00-81-55	719	4,076	4,795
74	27	MN	Fond Du Lac R.B.C.	B-5210-5-00-81-55	2,062	11,682	13,744
75	27	MN	Leech Lake R.B.C.	B-5211-5-00-81-55	5,676	32,163	37,839
76	27	MN	Mille Lacs Band of Chippewa Indians	B-5212-5-00-81-55	712	4,034	4,746
77	27	MN	Minneapolis American Indian Center	B-5213-5-00-81-55	992	5,621	6,613
78	27	MN	Red Lake Tribal Council	B-5214-5-00-81-55	6,863	38,891	45,754
79	27	MN	White Earth R.B.C.	B-5215-5-00-81-55	4,488	25,435	29,923
80	28	MS	Mississippi Band of Choctaw Indians	B-5216-5-00-81-55	7,450	42,219	49,669
81	29	MO	Region VII American Indian Council, Inc.	B-5217-5-00-81-55	1,122	6,359	7,481
82	30	MT	Assiniboine & Sioux Tribes	B-5218-5-00-81-55	9,825	55,675	65,500
83	30	MT	Blackfeet Tribal Business Council	B-5219-5-00-81-55	11,169	63,290	74,459
84	30	MT	Chippewa Cree Tribe	B-5220-5-00-81-55	3,732	21,146	24,878
85	30	MT	Confederated Salish & Kootenai Tribes	B-5221-5-00-81-55	10,503	59,520	70,023
86	30	MT	Crow Indian Tribe	B-5222-5-00-81-55	9,120	51,683	60,803
87	30	MT	Fort Belknap Indian Community	B-5223-5-00-81-55	3,888	22,034	25,922
88	30	MT	Montana United Indian Association	B-5224-5-00-81-55	0	0	0
89	30	MT	Northern Cheyenne Tribe	B-5225-5-00-81-55	7,698	43,623	51,321
90	31	NE	Indian Center, Inc.	B-5226-5-00-81-55	3,197	18,114	21,311

Appendix No. 1

U.S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American CY 1996 JTPA Title II-B Allotments

	State		Grantee	Grant Number	Administrative	Program	Total
			National Total		1,704,925	9,661,207	11,366,132
91	31	NE	Winnebago Tribe	B-5123-6-00-81-55	1,957	11,091	13,048
92	32	NV	Inter-Tribal Council of Nevada	B-5228-5-00-81-55	9,460	53,604	63,064
93	32	NV	Las Vegas Indian Center, Inc.	B-5229-5-00-81-55	0	0	0
94	32	NV	Shoshone-Paiute Tribes	B-5230-5-00-81-55	1,545	8,754	10,299
95	34	NJ	Powhatan Renape Nation	B-5232-5-00-81-55	0	0	0
96	35	NM	Alamo Navajo School Board	B-5233-5-00-81-55	3,053	17,302	20,355
97	35	NM	All Indian Pueblo Council, Inc.	B-5234-5-00-81-55	8,377	47,467	55,844
98	35	NM	Eight Northern Indian Pueblo Council	B-5235-5-00-81-55	3,784	21,442	25,226
99	35	NM	Five Sandoval Indian Pueblos, Inc.	B-5236-5-00-81-55	7,215	40,888	48,103
100	35	NM	Jicarilla Apache Tribe	B-5237-5-00-81-55	4,893	27,726	32,619
101	35	NM	Mescalero Apache Tribe	B-5238-5-00-81-55	4,462	25,287	29,749
102	35	NM	National Indian Youth Council	B-5239-5-00-81-55	0	0	0
103	35	NM	Pueblo of Acoma	B-5240-5-00-81-55	4,802	27,209	32,011
104	35	NM	Pueblo of Laguna	B-5241-5-00-81-55	5,754	32,606	38,360
105	35	NM	Pueblo of Taos	B-5242-5-00-81-55	1,879	10,647	12,526
106	35	NM	Pueblo of Zuni	B-5243-5-00-81-55	13,987	79,261	93,248
107	35	NM	Ramah Navajo School Board, Inc.	B-5244-5-00-81-55	3,797	21,516	25,313
108	35	NM	Santa Clara Indian Pueblo	B-5245-5-00-81-55	2,166	12,274	14,440
109	35	NM	Santo Domingo Tribe	B-5246-5-00-81-55	5,924	33,567	39,491
110	36	NY	American Indian Community House, Inc.	B-5247-5-00-81-55	953	5,397	6,350
111	36	NY	Native American Cultural Center, Inc.	B-5249-5-00-81-55	1,855	10,513	12,368
112	36	NY	Native Am. Comm. Services of Erie & Niagara	B-5250-5-00-81-55	0	0	0
113	36	NY	St. Regis Mohawk Tribe	B-5251-5-00-81-55	3,210	18,188	21,398
114	36	NY	Seneca Nation of Indians	B-5252-5-00-81-55	5,819	32,976	38,795
115	37	NC	Cumberland County Association for Indian Peopl	B-5253-5-00-81-55	0	0	0
116	37	NC	Eastern Band of Cherokee Indians	B-5254-5-00-81-55	10,503	59,520	70,023
117	37	NC	Guilford Native American Association	B-5255-5-00-81-55	0	0	0
118	37	NC	Haliwa-Saponi Tribe, Inc.	B-5256-5-00-81-55	0	0	0
119	37	NC	Lumbee Regional Development Association	B-5257-5-00-81-55	0	0	0
120	37	NC	Metrolina Native American Association	B-5258-5-00-81-55	0	0	0
121	37	NC	North Carolina Commission of Indian Affairs	B-5259-5-00-81-55	0	0	0
122	38	ND	Devils Lake Sioux Tribe	B-5260-5-00-81-55	5,297	30,019	35,316
123	38	ND	Standing Rock Sioux Tribe	B-5261-5-00-81-55	10,621	60,185	70,806
124	38	ND	Three Affiliated Tribes - Ft. Berthold Reservation	B-5262-5-00-81-55	5,715	32,384	38,099
125	38	ND	Turtle Mountain Band of Chippewa Indians	B-5263-5-00-81-55	12,826	72,680	85,506
126	38	ND	United Tribes Technical College	B-5264-5-00-81-55	0	0	0
127	39	OH	North America Indian Cultural Centers	B-5265-5-00-81-55	0	0	0
128	40	OK	Caddo Tribe of Oklahoma	B-5266-5-00-81-55	1,422	8,059	9,481
129	40	OK	Central Tribes of Shawnee Area, Inc.	B-5267-5-00-81-55	5,911	33,493	39,404
130	40	OK	Cherokee Nation of Oklahoma	B-5268-5-00-81-55	123,941	702,331	826,272
131	40	OK	Cheyenne-Arapaho Tribes	B-5269-5-00-81-55	12,748	72,236	84,984
132	40	OK	Chickasaw Nation of Oklahoma	B-5270-5-00-81-55	42,849	242,810	285,659
133	40	OK	Choctaw Nation of Oklahoma	B-5271-5-00-81-55	56,993	322,958	379,951
134	40	OK	Citizen Band Potawatomi Indians of Oklahoma	B-5272-5-00-81-55	36,142	204,807	240,949
135	40	OK	Comanche Tribe of Oklahoma	B-5273-5-00-81-55	11,717	66,396	78,113

Appendix No. 1

U.S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American CY 1996 JTPA Title II-B Allotments

	State		Grantee	Grant Number	Administrative	Program	Total
			National Total		1,704,925	9,661,207	11,366,132
136	40	OK	Creek Nation of Oklahoma	B-5274-5-00-81-55	55,584	314,973	370,557
137	40	OK	Four Tribes Consortium of Oklahoma	B-5275-5-00-81-55	4,162	23,586	27,748
138	40	OK	Inter-Tribal Council of N.E. Oklahoma	B-5276-5-00-81-55	6,707	38,003	44,710
139	40	OK	Kiowa Tribe of Oklahoma	B-5277-5-00-81-55	11,012	62,403	73,415
140	40	OK	Oklahoma Tribal Assistance Program, Inc.	B-5278-5-00-81-55	30,245	171,387	201,632
141	40	OK	Osage Tribal Council	B-5279-5-00-81-55	8,820	49,982	58,802
142	40	OK	OTOE-Missouria Tribe of Oklahoma	B-5280-5-00-81-55	2,714	15,379	18,093
143	40	OK	Pawnee Tribe of Oklahoma	B-5281-5-00-81-55	3,366	19,076	22,442
144	40	OK	Ponca Tribe of Oklahoma	B-5282-5-00-81-55	6,198	35,120	41,318
145	40	OK	Seminole Nation of Oklahoma	B-5284-5-00-81-55	7,364	41,726	49,090
146	40	OK	Tonkawa Tribe of Oklahoma	B-5285-5-00-81-55	4,789	27,135	31,924
147	40	OK	United Urban Indian Council, Inc.	B-5286-5-00-81-55	40,482	229,395	269,877
148	41	OR	Confed. Tribes of Siletz Indians of Orego	B-5287-5-00-81-55	2,243	12,711	14,954
149	41	OR	Confed. Tribes of the Umatilla Indian Res	B-5288-5-00-81-55	1,905	10,795	12,700
150	41	OR	Confederated Tribes of Warm Springs	B-5289-5-00-81-55	5,167	29,282	34,449
151	41	OR	Organization of Forgotten Americans	B-5290-5-00-81-55	333	1,888	2,221
152	42	PA	Council of Three Rivers	B-5291-5-00-81-55	0	0	0
153	42	PA	United American Indians of the Delaware Valley	B-5292-5-00-81-55	0	0	0
154	44	RI *	Rhode Island Indian Council	B-5293-5-00-81-55	0	0	0
155	45	SC	South Carolina Indian Development Council, Inc.	B-5472-5-00-81-55	196	1,109	1,305
156	46	SD	Cheyenne River Sioux Tribe	B-5295-5-00-81-55	9,812	55,601	65,413
157	46	SD	Crow Creek Sioux Tribe	B-5129-5-00-81-55	2,805	15,897	18,702
158	46	SD	Lower Brule Sioux Tribe	B-5296-5-00-81-55	1,996	11,313	13,309
159	46	SD	Oglala Sioux Tribe	B-5297-5-00-81-55	21,359	121,036	142,395
160	46	SD	Rosebud Sioux Tribe	B-5298-5-00-81-55	18,384	104,178	122,562
161	46	SD	Sisseton-Wahpeton Sioux Tribe	B-5299-5-00-81-55	5,415	30,684	36,099
162	46	SD	United Sioux Tribe Development Corp.	B-5300-5-00-81-55	8,056	45,653	53,709
163	47	TN	Native American Indian Association	B-5301-5-00-81-55	0	0	0
164	48	TX	Alabama-Coushatta Indian Tribal Council	B-5302-5-00-81-55	1,083	6,137	7,220
165	48	TX	Dallas Inter-Tribal Center	B-5303-5-00-81-55	0	0	0
166	48	TX	Ysleta del Sur Pueblo	B-5304-5-00-81-55	947	5,363	6,310
167	49	UT *	Indian Training & Education Center	B-5305-5-00-81-55	0	0	0
168	49	UT	Ute Indian Tribe	B-5306-5-00-81-55	4,593	26,026	30,619
169	50	VT	Abenaki Self-Help Association/ NH Ind. Counc.	B-5307-5-00-81-55	0	0	0
170	51	VA *	Mattaponi Pamunkey Monacan Consortium	B-5308-5-00-81-55	0	0	0
171	53	WA	American Indian Community Center	B-5309-5-00-81-55	16,518	93,605	110,123
172	53	WA	Colville Confederated Tribes	B-5310-5-00-81-55	6,824	38,669	45,493
173	53	WA	Lummi Indian Business Council	B-5311-5-00-81-55	3,236	18,336	21,572
174	53	WA	Makah Tribal Council	B-5131-5-00-81-55	1,487	8,429	9,916
175	53	WA	Puyallup Tribe of Indians	B-5312-5-00-81-55	1,657	9,390	11,047
176	53	WA	Seattle Indian Center	B-5313-5-00-81-55	0	0	0
177	53	WA	The Tulalip Tribes	B-5130-5-00-81-55	1,657	9,390	11,047
178	53	WA	Western WA Indian Empl. and Trng Pgm.	B-5314-5-00-81-55	11,939	67,652	79,591
179	55	WI	Ho-Chunk Nation	B-5322-5-00-81-55	1,318	7,468	8,786
180	55	WI	Lac Courte Oreilles Tribal Governing Board	B-5315-5-00-81-55	4,280	24,251	28,531

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U.S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American CY 1996 JTPA Title II-B Allotments

	State		Grantee	Grant Number	Administrative	Program	Total
			National Total		1,704,925	9,661,207	11,366,132
181	55	WI	Lac Du Flambeau Band of Lake Superior Chippe	B-5316-5-00-81-55	2,675	15,157	17,832
182	55	WI	Menominee Indian Tribe of Wisconsin	B-5317-5-00-81-55	5,585	31,645	37,230
183	55	WI	Milwaukee Area Am. Ind. Manpower Council	B-5318-5-00-81-55	0	0	0
184	55	WI	Oneida Tribe of Indians of WI, Inc.	B-5319-5-00-81-55	4,175	23,660	27,835
185	55	WI	Stockbridge-Munsee Community	B-5320-5-00-81-55	765	4,333	5,098
186	55	WI	Wisconsin Indian Consortium	B-5321-5-00-81-55	3,392	19,224	22,616
187	56	WY	Shoshone/Arapahoe Tribes	B-5323-5-00-81-55	10,242	58,041	68,283
			* Technical Assistance & Training		3,014	17,080	20,094

* Title II-B funds declined by 5 grantees. These unallocated funds were used for TAT purposes for section 401 grantees as allowed by 20 CFR 632.171(b).

Appendix No. 2

U. S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American PY 1996 JTPA Title IV-A Allotments

State			Grantee	Grant Number	Administrative	Program	Total
			National Total		10,500,400	42,001,600	52,502,000
1	1	AL	Inter-Tribal Council of Alabama	B-5133-5-00-81-55	44,588	178,354	222,942
2	1	AL	Poarch Band of Creek Indians	B-5132-5-00-81-55	17,650	70,598	88,248
3	2	AK	Aleutian/Pribilof Islands Association	B-5134-5-00-81-55	5,288	21,153	26,441
4	2	AK	Arctic Slope Native Association	B-5126-5-00-81-55	7,602	30,409	38,011
5	2	AK	Association of Village Council Presidents	B-5135-5-00-81-55	74,186	296,742	370,928
6	2	AK	Bristol Bay Native Association	B-5136-5-00-81-55	20,245	80,981	101,226
7	2	AK	Central Council of Tlingit and Haida	B-5137-5-00-81-55	36,578	146,314	182,892
8	2	AK	Chugachmiut	B-5139-5-00-81-55	7,527	30,110	37,637
9	2	AK	Cook Inlet Tribal Council	B-5138-5-00-81-55	74,646	298,583	373,229
10	2	AK	Kawerak Incorporated	B-5140-5-00-81-55	31,270	125,082	156,352
11	2	AK	Kenaitze Indian Tribe	B-5141-5-00-81-55	3,967	15,869	19,836
12	2	AK	Kodiak Area Native Association	B-5142-5-00-81-55	7,099	28,398	35,497
13	2	AK	Kuskokwim Native Association	B-5124-5-00-81-55	8,763	35,050	43,813
14	2	AK	Maniilaq Manpower	B-5143-5-00-81-55	21,916	87,664	109,580
15	2	AK	Metlakatla Indian Community	B-5144-5-00-81-55	3,783	15,130	18,913
16	2	AK	Native Village of Barrow	B-5125-5-00-81-55	6,503	26,012	32,515
17	2	AK	Orutsararmuit Native Council	B-5145-5-00-81-55	8,826	35,305	44,131
18	2	AK	Tanana Chiefs Conference, Inc.	B-5146-5-00-81-55	60,188	240,750	300,938
19	4	AZ	Affiliation of Arizona Ind. Cntrs. Inc.	B-5147-5-00-81-55	48,458	193,833	242,291
20	4	AZ	American Indian Association of Tucson	B-5148-5-00-81-55	50,964	203,855	254,819
21	4	AZ	Colorado River Indian Tribes	B-5149-5-00-81-55	12,827	51,306	64,133
22	4	AZ	Gila River Indian Community	B-5150-5-00-81-55	114,307	457,228	571,535
23	4	AZ	Hopi Tribal Council	B-5151-5-00-81-55	54,297	217,188	271,485
24	4	AZ	Inter Tribal Council of Arizona, Inc.	B-5996-6-00-81-55	26,255	105,019	131,274
25	4	AZ	Native Americans for Community Action	B-5153-5-00-81-55	34,469	137,875	172,344
26	4	AZ	Navajo Nation	B-5154-5-00-81-55	1,250,493	5,001,975	6,252,468
27	4	AZ	Pasqua Yaqui Tribe	B-5155-5-00-81-55	21,388	85,553	106,941
28	4	AZ	Phoenix Indian Center, Inc.	B-5156-5-00-81-55	156,202	624,806	781,008
29	4	AZ	Salt River Pima-Maricopa Indian Council	B-5157-5-00-81-55	26,600	106,398	132,998
30	4	AZ	San Carlos Apache Tribe	B-5158-5-00-81-55	65,562	262,248	327,810
31	4	AZ	Tohono O'Odham Nation	B-5159-5-00-81-55	89,223	356,890	446,113
32	4	AZ	White Mountain Apache Tribe	B-5160-5-00-81-55	86,404	345,614	432,018
33	5	AR	American Indian Center of Arkansas, Inc.	B-5161-5-00-81-55	51,879	207,514	259,393
34	6	CA	American Indian Center of Santa Clara Valley,	B-5162-5-00-81-55	26,100	104,398	130,498
35	6	CA	California Indian Manpower Consortium, Inc.	B-5163-5-00-81-55	522,782	2,091,128	2,613,910
36	6	CA	Candelaria American Indian Council	B-5164-5-00-81-55	50,847	203,386	254,233
37	6	CA	Indian Human Resources Center, Inc.	B-5165-5-00-81-55	59,933	239,734	299,667
38	6	CA	Northern CA Indian Development Council, Inc.	B-5166-5-00-81-55	42,742	170,968	213,710
39	6	CA	Quechan Indian Tribe	B-5127-5-00-81-55	8,248	32,994	41,242
40	6	CA	Southern CA Indian Center, Inc.	B-5167-5-00-81-55	219,815	879,262	1,099,077
41	6	CA	Tule River Tribal Council	B-5168-5-00-81-55	18,025	72,099	90,124
42	6	CA	United Indian Nations, Inc.	B-5169-5-00-81-55	71,821	287,286	359,107
43	6	CA	Ya-Ka-Ama Indian Education & Development	B-5170-5-00-81-55	15,870	63,482	79,352
44	8	CO	Denver Indian Center	B-5171-5-00-81-55	111,674	446,697	558,371
45	8	CO	Southern Ute Indian Tribe	B-5172-5-00-81-55	8,898	35,594	44,492

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U. S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American PY 1996 JTPA Title IV-A Allotments

State			Grantee	Grant Number	Administrative	Program	Total
			National Total		10,500,400	42,001,600	52,502,000
46	8	CO	Ute Mountain Ute Indian Tribe	B-5173-5-00-81-55	17,657	70,629	88,286
47	10	DE	Nanticoke Indian Association, Inc.	B-5174-5-00-81-55	5,040	20,161	25,201
48	12	FL	Florida Governor's Council on Indian Affairs	B-5176-5-00-81-55	168,302	673,210	841,512
49	12	FL	Miccosukee Corporation	B-5177-5-00-81-55	13,490	53,958	67,448
50	12	FL	Seminole Tribe of Florida	B-5178-5-00-81-55	15,167	60,670	75,837
51	15	HI	Alu Like, Inc.	B-5180-5-00-81-55	310,128	1,240,514	1,550,642
52	15	HI	State of HI Dept. of Labor and Industrial Rela	B-5181-5-00-81-55	13,922	55,687	69,609
53	16	ID	Kootenai Tribe of Idaho	B-5182-5-00-81-55	3,192	12,770	15,962
54	16	ID	Nez Perce Tribe	B-5183-5-00-81-55	14,044	56,174	70,218
55	16	ID	Shoshone-Bannock Tribes	B-5184-5-00-81-55	43,348	173,390	216,738
56	18	IN	Indiana American Ind Manpower Council	B-5186-5-00-81-55	47,443	189,774	237,217
57	20	KS	Mid American All Indian Center, Inc.	B-5192-5-00-81-55	29,241	116,963	146,204
58	20	KS	United Tribes of Kansas and S.E. Nebraska	B-5193-5-00-81-55	73,245	292,979	366,224
59	22	LA	Inter-Tribal Council of Louisiana, Inc.	B-5195-5-00-81-55	116,738	466,950	583,688
60	23	ME	Central Maine Indian Association, Inc.	B-5196-5-00-81-55	14,500	58,002	72,502
61	23	ME	Tribal Governors, Inc.	B-5197-5-00-81-55	17,145	68,581	85,726
62	24	MD	Baltimore American Indian Center	B-5198-5-00-81-55	40,322	161,287	201,609
63	25	MA	Mashpee-Wampanoag Indian Tribal Council, Inc.	B-5199-5-00-81-55	11,973	47,893	59,866
64	25	MA	North American Indian Center of Boston, Inc.	B-5200-5-00-81-55	40,395	161,581	201,976
65	26	MI	Grand Traverse Band of Ottawa & Chippewa I	B-5201-5-00-81-55	9,249	36,994	46,243
66	26	MI	Inter-Tribal Council of Michigan, Inc.	B-5202-5-00-81-55	11,713	46,852	58,565
67	26	MI	MI Indian Employment and Training Services, I	B-5203-5-00-81-55	128,326	513,306	641,632
68	26	MI	North American Indian Association of Detroit	B-5204-5-00-81-55	47,815	191,262	239,077
69	26	MI	Potawatomi Indian Nation	B-5205-5-00-81-55	18,930	75,721	94,651
70	26	MI	Sault Ste. Marie Tribe of Chippewa Indians	B-5206-5-00-81-55	40,582	162,326	202,908
71	26	MI	Southeastern Michigan Indians. Inc.	B-5207-5-00-81-55	23,705	94,821	118,526
72	27	MN	American Indian Opportunities Center	B-5208-5-00-81-55	104,387	417,549	521,936
73	27	MN	Bois Forte R.B.C.	B-5209-5-00-81-55	4,646	18,582	23,228
74	27	MN	Fond Du Lac R.B.C.	B-5210-5-00-81-55	40,955	163,819	204,774
75	27	MN	Leech Lake R.B.C.	B-5211-5-00-81-55	37,270	149,080	186,350
76	27	MN	Mille Lacs Band of Chippewa Indians	B-5212-5-00-81-55	8,314	33,254	41,568
77	27	MN	Minneapolis American Indian Center	B-5213-5-00-81-55	77,113	308,451	385,564
78	27	MN	Red Lake Tribal Council	B-5214-5-00-81-55	39,646	158,583	198,229
79	27	MN	White Earth R.B.C.	B-5215-5-00-81-55	27,831	111,322	139,153
80	28	MS	Mississippi Band of Choctaw Indians	B-5216-5-00-81-55	49,970	199,881	249,851
81	29	MO	Region VII American Indian Council, Inc.	B-5217-5-00-81-55	105,801	423,202	529,003
82	30	MT	Assiniboine & Sioux Tribes	B-5218-5-00-81-55	46,631	186,526	233,157
83	30	MT	Blackfeet Tribal Business Council	B-5219-5-00-81-55	61,470	245,882	307,352
84	30	MT	Chippewa Cree Tribe	B-5220-5-00-81-55	24,318	97,273	121,591
85	30	MT	Confederated Salish & Kootenai Tribes	B-5221-5-00-81-55	48,531	194,125	242,656
86	30	MT	Crow Indian Tribe	B-5222-5-00-81-55	42,960	171,841	214,801
87	30	MT	Fort Belknap Indian Community	B-5223-5-00-81-55	17,675	70,698	88,373
88	30	MT	Montana United Indian Association	B-5224-5-00-81-55	76,399	305,596	381,995
89	30	MT	Northern Cheyenne Tribe	B-5225-5-00-81-55	38,580	154,318	192,898
90	31	NE	Indian Center, Inc.	B-5226-5-00-81-55	72,490	289,959	362,449

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U. S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American PY 1996 JTPA Title IV-A Allotments

	State		Grantee	Grant Number	Administrative	Program	Total
			National Total		10,500,400	42,001,600	52,502,000
91	31	NE	Winnebago Tribe	B-5123-6-00-81-55	7,845	31,382	39,227
92	32	NV	Inter-Tribal Council of Nevada	B-5228-5-00-81-55	62,371	249,483	311,854
93	32	NV	Las Vegas Indian Center, Inc.	B-5229-5-00-81-55	23,796	95,183	118,979
94	32	NV	Shoshone-Paiute Tribes	B-5230-5-00-81-55	21,634	86,534	108,168
95	34	NJ	Powhatan Renape Nation	B-5232-5-00-81-55	51,345	205,378	256,723
96	35	NM	Alamo Navajo School Board	B-5233-5-00-81-55	11,149	44,594	55,743
97	35	NM	All Indian Pueblo Council, Inc.	B-5234-5-00-81-55	23,536	94,143	117,679
98	35	NM	Eight Northern Indian Pueblo Council	B-5235-5-00-81-55	11,470	45,881	57,351
99	35	NM	Five Sandoval Indian Pueblos, Inc.	B-5236-5-00-81-55	19,019	76,078	95,097
100	35	NM	Jicarilla Apache Tribe	B-5237-5-00-81-55	12,162	48,649	60,811
101	35	NM	Mescalero Apache Tribe	B-5238-5-00-81-55	21,712	86,848	108,560
102	35	NM	National Indian Youth Council	B-5239-5-00-81-55	226,368	905,472	1,131,840
103	35	NM	Pueblo of Acoma	B-5240-5-00-81-55	28,513	114,054	142,567
104	35	NM	Pueblo of Laguna	B-5241-5-00-81-55	19,346	77,382	96,728
105	35	NM	Pueblo of Taos	B-5242-5-00-81-55	9,299	37,194	46,493
106	35	NM	Pueblo of Zuni	B-5243-5-00-81-55	54,256	217,023	271,279
107	35	NM	Ramah Navajo School Board, Inc.	B-5244-5-00-81-55	21,838	87,351	109,189
108	35	NM	Santa Clara Indian Pueblo	B-5245-5-00-81-55	5,986	23,945	29,931
109	35	NM	Santo Domingo Tribe	B-5246-5-00-81-55	14,365	57,458	71,823
110	36	NY	American Indian Community House, Inc.	B-5247-5-00-81-55	109,796	439,183	548,979
111	36	NY	Native American Cultural Center, Inc.	B-5249-5-00-81-55	37,700	150,798	188,498
112	36	NY	Native Am. Comm. Services of Erie & Niagara	B-5250-5-00-81-55	31,816	127,265	159,081
113	36	NY	St. Regis Mohawk Tribe	B-5251-5-00-81-55	26,269	105,074	131,343
114	36	NY	Seneca Nation of Indians	B-5252-5-00-81-55	38,759	155,037	193,796
115	37	NC	Cumberland County Association for Indian Peopl	B-5253-5-00-81-55	16,978	67,911	84,889
116	37	NC	Eastern Band of Cherokee Indians	B-5254-5-00-81-55	41,443	165,772	207,215
117	37	NC	Guilford Native American Association	B-5255-5-00-81-55	10,826	43,306	54,132
118	37	NC	Haliwa-Saponi Tribe, Inc.	B-5256-5-00-81-55	13,666	54,666	68,332
119	37	NC	Lumbee Regional Development Association	B-5257-5-00-81-55	179,588	718,350	897,938
120	37	NC	Metrolina Native American Association	B-5258-5-00-81-55	11,065	44,262	55,327
121	37	NC	North Carolina Commission of Indian Affairs	B-5259-5-00-81-55	42,195	168,781	210,976
122	38	ND	Devils Lake Sioux Tribe	B-5260-5-00-81-55	26,304	105,218	131,522
123	38	ND	Standing Rock Sioux Tribe	B-5261-5-00-81-55	44,744	178,974	223,718
124	38	ND	Three Affiliated Tribes - Ft. Berthold Reservation	B-5262-5-00-81-55	34,521	138,084	172,605
125	38	ND	Turtle Mountain Band of Chippewa Indians	B-5263-5-00-81-55	71,128	284,514	355,642
126	38	ND	United Tribes Technical College	B-5264-5-00-81-55	34,591	138,363	172,954
127	39	OH	North America Indian Cultural Centers	B-5265-5-00-81-55	93,459	373,838	467,297
128	40	OK	Caddo Tribe of Oklahoma	B-5266-5-00-81-55	5,702	22,810	28,512
129	40	OK	Central Tribes of Shawnee Area, Inc.	B-5267-5-00-81-55	18,741	74,962	93,703
130	40	OK	Cherokee Nation of Oklahoma	B-5268-5-00-81-55	271,530	1,086,122	1,357,652
131	40	OK	Cheyenne-Arapaho Tribes	B-5269-5-00-81-55	43,069	172,278	215,347
132	40	OK	Chickasaw Nation of Oklahoma	B-5270-5-00-81-55	96,946	387,782	484,728
133	40	OK	Choctaw Nation of Oklahoma	B-5271-5-00-81-55	140,590	562,360	702,950
134	40	OK	Citizen Band Potawatomi Indians of Oklahoma	B-5272-5-00-81-55	58,916	235,664	294,580
135	40	OK	Comanche Tribe of Oklahoma	B-5273-5-00-81-55	30,611	122,443	153,054

Appendix No. 2

U. S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American PY 1996 JTPA Title IV-A Allotments

State			Grantee	Grant Number	Administrative	Program	Total
			National Total		10,500,400	42,001,600	52,502,000
136	40	OK	Creek Nation of Oklahoma	B-5274-5-00-81-55	126,984	507,936	634,920
137	40	OK	Four Tribes Consortium of Oklahoma	B-5275-5-00-81-55	19,697	78,787	98,484
138	40	OK	Inter-Tribal Council of N.E. Oklahoma	B-5276-5-00-81-55	16,020	64,078	80,098
139	40	OK	Kiowa Tribe of Oklahoma	B-5277-5-00-81-55	40,004	160,018	200,022
140	40	OK	Oklahoma Tribal Assistance Program, Inc.	B-5278-5-00-81-55	65,626	262,502	328,128
141	40	OK	Osage Tribal Council	B-5279-5-00-81-55	23,618	94,472	118,090
142	40	OK	OTOE-Missouria Tribe of Oklahoma	B-5280-5-00-81-55	8,039	32,157	40,196
143	40	OK	Pawnee Tribe of Oklahoma	B-5281-5-00-81-55	8,503	34,014	42,517
144	40	OK	Ponca Tribe of Oklahoma	B-5282-5-00-81-55	19,604	78,417	98,021
145	40	OK	Seminole Nation of Oklahoma	B-5284-5-00-81-55	24,841	99,362	124,203
146	40	OK	Tonkawa Tribe of Oklahoma	B-5285-5-00-81-55	14,252	57,006	71,258
147	40	OK	United Urban Indian Council, Inc.	B-5286-5-00-81-55	105,162	420,647	525,809
148	41	OR	Confed. Tribes of Siletz Indians of Orego	B-5287-5-00-81-55	100,394	401,577	501,971
149	41	OR	Confed. Tribes of the Umatilla Indian Res	B-5288-5-00-81-55	7,230	28,920	36,150
150	41	OR	Confederated Tribes of Warm Springs	B-5289-5-00-81-55	19,448	77,791	97,239
151	41	OR	Organization of Forgotten Americans	B-5290-5-00-81-55	69,472	277,887	347,359
152	42	PA	Council of Three Rivers	B-5291-5-00-81-55	102,608	410,432	513,040
153	42	PA	United American Indians of the Delaware Valley	B-5292-5-00-81-55	24,515	98,060	122,575
154	44	RI	Rhode Island Indian Council	B-5293-5-00-81-55	40,991	163,965	204,956
155	45	SC	South Carolina Indian Development Council, Inc.	B-5472-5-00-81-55	29,948	119,791	149,739
156	46	SD	Cheyenne River Sioux Tribe	B-5295-5-00-81-55	46,249	184,994	231,243
157	46	SD	Crow Creek Sioux Tribe	B-5129-5-00-81-55	12,807	51,228	64,035
158	46	SD	Lower Brule Sioux Tribe	B-5296-5-00-81-55	8,647	34,588	43,235
159	46	SD	Oglala Sioux Tribe	B-5297-5-00-81-55	120,499	481,996	602,495
160	46	SD	Rosebud Sioux Tribe	B-5298-5-00-81-55	77,768	311,074	388,842
161	46	SD	Sisseton-Wahpeton Sioux Tribe	B-5299-5-00-81-55	30,142	120,568	150,710
162	46	SD	United Sioux Tribe Development Corp.	B-5300-5-00-81-55	107,933	431,731	539,664
163	47	TN	Native American Indian Association	B-5301-5-00-81-55	53,323	213,294	266,617
164	48	TX	Alabama-Coushatta Indian Tribal Council	B-5302-5-00-81-55	114,998	459,994	574,992
165	48	TX	Dallas Inter-Tribal Center	B-5303-5-00-81-55	59,198	236,792	295,990
166	48	TX	Ysleta del Sur Pueblo	B-5304-5-00-81-55	70,067	280,267	350,334
167	49	UT	Indian Training & Education Center	B-5305-5-00-81-55	85,791	343,163	428,954
168	49	UT	Ute Indian Tribe	B-5306-5-00-81-55	21,369	85,475	106,844
169	50	VT	Abenaki Self-Help Association/ NH Ind. Counc.	B-5307-5-00-81-55	21,105	84,418	105,523
170	51	VA	Mattaponi Pamunkey Monacan Consortium	B-5308-5-00-81-55	40,643	162,574	203,217
171	53	WA	American Indian Community Center	B-5309-5-00-81-55	121,847	487,386	609,233
172	53	WA	Colville Confederated Tribes	B-5310-5-00-81-55	31,460	125,841	157,301
173	53	WA	Lummi Indian Business Council	B-5311-5-00-81-55	18,522	74,088	92,610
174	53	WA	Makah Tribal Council	B-5131-5-00-81-55	5,402	21,607	27,009
175	53	WA	Puyallup Tribe of Indians	B-5312-5-00-81-55	26,725	106,902	133,627
176	53	WA	Seattle Indian Center	B-5313-5-00-81-55	65,882	263,530	329,412
177	53	WA	The Tulalip Tribes	B-5130-5-00-81-55	5,167	20,668	25,835
178	53	WA	Western WA Indian Empl. and Trng Pgm.	B-5314-5-00-81-55	138,065	552,261	690,326
179	55	WI	Ho-Chunk Nation	B-5322-5-00-81-55	35,478	141,914	177,392
180	55	WI	Lac Courte Oreilles Tribal Governing Board	B-5315-5-00-81-55	26,357	105,429	131,786

Appendix No. 2

U. S. DEPARTMENT OF LABOR - Employment and Training Administration
Native American PY 1996 JTPA Title IV-A Allotments

State			Grantee	Grant Number	Administrative	Program	Total
			National Total		10,500,400	42,001,600	52,502,000
181	55	WI	Lac Du Flambeau Band of Lake Superior Chippe	B-5316-5-00-81-55	14,272	57,086	71,358
182	55	WI	Menominee Indian Tribe of Wisconsin	B-5317-5-00-81-55	27,332	109,330	136,662
183	55	WI	Milwaukee Area Am. Ind. Manpower Council	B-5318-5-00-81-55	40,307	161,230	201,537
184	55	WI	Oneida Tribe of Indians of WI, Inc.	B-5319-5-00-81-55	35,486	141,946	177,432
185	55	WI	Stockbridge-Munsee Community	B-5320-5-00-81-55	12,895	51,578	64,473
186	55	WI	Wisconsin Indian Consortium	B-5321-5-00-81-55	25,056	100,222	125,278
187	56	WY	Shoshone/Arapahoe Tribes	B-5323-5-00-81-55	68,382	273,528	341,910

[FR Doc. 96–26494 Filed 10–15–96; 8:45 am]
BILLING CODE 4510–30–C

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective October 1, 1996.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year 1997.

FOR FURTHER INFORMATION CONTACT: Willian J. McGarrity, Labor Economist, USES, Employment and Training Administration, 200 Constitution Avenue, N.W., Room N–4470, Attention: TEESS, Washington, D.C. 20210. Telephone: 202–219–5185, ext. 129.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR Part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR Part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation Part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is hereby publishing the annual list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) effective October 1, 1996.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on October 1, 1996.

Timothy M. Barnicle,

Assistant Secretary.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
ALABAMA	
ANNISTON CITY	ANNISTON CITY IN CALHOUN COUNTY
BARBOUR COUNTY	BARBOUR COUNTY
BESSEMER CITY	BESSEMER CITY IN JEFFERSON COUNTY
BIBB COUNTY	BIBB COUNTY
BULLOCK COUNTY	BULLOCK COUNTY
BUTLER COUNTY	BUTLER COUNTY
CHAMBERS COUNTY	CHAMBERS COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
CLARKE COUNTY	CLARKE COUNTY
COLBERT COUNTY	COLBERT COUNTY
CONECUH COUNTY	CONECUH COUNTY
BALANCE OF DALE COUNTY	DALE COUNTY LESS DOTHAN CITY
DALLAS COUNTY	DALLAS COUNTY
ESCAMBIA COUNTY	ESCAMBIA COUNTY
FLORENCE CITY	FLORENCE CITY IN LAUDERDALE COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GADSDEN CITY	GADSDEN CITY IN ETOWAH COUNTY
GREENE COUNTY	GREENE COUNTY
HALE COUNTY	HALE COUNTY
HENRY COUNTY	HENRY COUNTY
JACKSON COUNTY	JACKSON COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LOWNDES COUNTY	LOWNDES COUNTY
MACON COUNTY	MACON COUNTY
MARENGO COUNTY	MARENGO COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MOBILE CITY	MOBILE CITY IN MOBILE COUNTY
MONROE COUNTY	MONROE COUNTY
PERRY COUNTY	PERRY COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
PICKENS COUNTY	PICKENS COUNTY
PRICHARD CITY	PRICHARD CITY IN MOBILE COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SUMTER COUNTY	SUMTER COUNTY
TALLADEGA COUNTY	TALLADEGA COUNTY
WALKER COUNTY	WALKER COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WILCOX COUNTY	WILCOX COUNTY
ALASKA	
BETHEL CENSUS AREA	BETHEL CENSUS AREA
DENALI BOROUGH	DENALI BOROUGH
DILLINGHAM CENSUS AREA	DILLINGHAM CENSUS AREA
FAIRBANKS CITY	FAIRBANKS CITY IN FAIRBANKS NORTH STAR BOROUGH
BALANCE OF FAIRBANKS NORTH STAR BOROUGH	FAIRBANKS NORTH STAR BOROUGH LESS FAIRBANKS CITY
HAINES BOROUGH	HAINES BOROUGH
KENAI PENINSULA BOROUGH	KENAI PENINSULA BOROUGH
KETCHIKAN GATEWAY BOROUGH	KETCHIKAN GATEWAY BOROUGH
KODIAK ISLAND BOROUGH	KODIAK ISLAND BOROUGH
MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSITNA BOROUGH
NOME CENSUS AREA	NOME CENSUS AREA
NORTHWEST ARCTIC BOROUGH	NORTHWEST ARCTIC BOROUGH
PRINCE OF WALES OUTER KETCHIKAN	PRINCE OF WALES OUTER KETCHIKAN
SITKA BOROUGH	SITKA BOROUGH
SKAGWAY-HOONAH-ANGOON CEN AREA	SKAGWAY-HOONAH-ANGOON CEN AREA
SOUTHEAST FAIRBANKS CENSUS AREA	SOUTHEAST FAIRBANKS CENSUS AREA
VALDEZ CORDOVA CENSUS AREA	VALDEZ CORDOVA CENSUS AREA
WADE HAMPTON CENSUS AREA	WADE HAMPTON CENSUS AREA
WRANGELL-PETERSBURG CENSUS AREA	WRANGELL-PETERSBURG CENSUS AREA
YAKUTAT BOROUGH	YAKUTAT BOROUGH
YUKON-KOYUKUK CENSUS AREA	YUKON-KOYUKUK CENSUS AREA
ARIZONA	
APACHE COUNTY	APACHE COUNTY
BULLHEAD CITY	BULLHEAD CITY IN MOHAVE COUNTY
BALANCE OF COCHISE COUNTY	COCHISE COUNTY LESS SIERRA VISTA CITY
BALANCE OF COCONINO COUNTY	COCONINO COUNTY LESS FLAGSTAFF CITY
GILA COUNTY	GILA COUNTY
GRAHAM COUNTY	GRAHAM COUNTY
GREENLEE COUNTY	GREENLEE COUNTY
LA PAZ COUNTY	LA PAZ COUNTY
BALANCE OF MOHAVE COUNTY	MOHAVE COUNTY LESS BULLHEAD CITY LAKE HAVASU CITY
NAVAJO COUNTY	NAVAJO COUNTY
SANTA CRUZ COUNTY	SANTA CRUZ COUNTY
SIERRA VISTA CITY	SIERRA VISTA CITY IN COCHISE COUNTY
YUMA CITY	YUMA CITY IN YUMA COUNTY
BALANCE OF YUMA COUNTY	YUMA COUNTY LESS YUMA CITY
ARKANSAS	
BRADLEY COUNTY	BRADLEY COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CHICOT COUNTY	CHICOT COUNTY
DALLAS COUNTY	DALLAS COUNTY
DESHA COUNTY	DESHA COUNTY
HEMPSTEAD COUNTY	HEMPSTEAD COUNTY
JACKSON COUNTY	JACKSON COUNTY
LAFAYETTE COUNTY	LAFAYETTE COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
LEE COUNTY	LEE COUNTY
LITTLE RIVER COUNTY	LITTLE RIVER COUNTY
MILLER COUNTY	MILLER COUNTY
MISSISSIPPI COUNTY	MISSISSIPPI COUNTY
OUACHITA COUNTY	OUACHITA COUNTY
PERRY COUNTY	PERRY COUNTY
PHILLIPS COUNTY	PHILLIPS COUNTY
PINE BLUFF CITY	PINE BLUFF CITY IN JEFFERSON COUNTY
ST. FRANCIS COUNTY	ST. FRANCIS COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
WOODRUFF COUNTY	WOODRUFF COUNTY
CALIFORNIA	
ALHAMBRA CITY	ALHAMBRA CITY IN LOS ANGELES COUNTY
ALPINE COUNTY	ALPINE COUNTY
AMADOR COUNTY	AMADOR COUNTY
ANTIOCH CITY	ANTIOCH CITY IN CONTRA COSTA COUNTY
APPLE VALLEY CITY	APPLE VALLEY CITY IN SAN BERNARDINO COUNTY
AZUSA CITY	AZUSA CITY IN LOS ANGELES COUNTY
BAKERSFIELD CITY	BAKERSFIELD CITY IN KERN COUNTY
BALDWIN PARK CITY	BALDWIN PARK CITY IN LOS ANGELES COUNTY
BELL CITY	BELL CITY IN LOS ANGELES COUNTY
BELL GARDENS CITY	BELL GARDENS CITY IN LOS ANGELES COUNTY
BALANCE OF BUTTE COUNTY	BUTTE COUNTY LESS CHICO CITY PARADISE CITY
CALAVERAS COUNTY	CALAVERAS COUNTY
CARSON CITY	CARSON CITY IN LOS ANGELES COUNTY
CATHEDRAL CITY	CATHEDRAL CITY IN RIVERSIDE COUNTY
CERES CITY	CERES CITY IN STANISLAUS COUNTY
CHICO CITY	CHICO CITY IN BUTTE COUNTY
CHULA VISTA CITY	CHULA VISTA CITY IN SAN DIEGO COUNTY
CLOVIS CITY	CLOVIS CITY IN FRESNO COUNTY
COLTON CITY	COLTON CITY IN SAN BERNARDINO COUNTY
COLUSA COUNTY	COLUSA COUNTY
COMPTON CITY	COMPTON CITY IN LOS ANGELES COUNTY
CORONA CITY	CORONA CITY IN RIVERSIDE COUNTY
DEL NORTE COUNTY	DEL NORTE COUNTY
DELANO CITY	DELANO CITY IN KERN COUNTY
EAST PALO ALTO CITY	EAST PALO ALTO CITY IN SAN MATEO COUNTY
EL CAJON CITY	EL CAJON CITY IN SAN DIEGO COUNTY
EL CENTRO CITY	EL CENTRO CITY IN IMPERIAL COUNTY
EL MONTE CITY	EL MONTE CITY IN LOS ANGELES COUNTY
EUREKA CITY	EUREKA CITY IN HUMBOLDT COUNTY
FAIRFIELD CITY	FAIRFIELD CITY IN SOLANO COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
FONTANA CITY	FONTANA CITY IN SAN BERNARDINO COUNTY
FRESNO CITY	FRESNO CITY IN FRESNO COUNTY
BALANCE OF FRESNO COUNTY	FRESNO COUNTY LESS CLOVIS CITY FRESNO CITY
GILROY CITY	GILROY CITY IN SANTA CLARA COUNTY
GLENDALE CITY	GLENDALE CITY IN LOS ANGELES COUNTY
GLENN COUNTY	GLENN COUNTY
HANFORD CITY	HANFORD CITY IN KINGS COUNTY
HAWTHORNE CITY	HAWTHORNE CITY IN LOS ANGELES COUNTY
HEMET CITY	HEMET CITY IN RIVERSIDE COUNTY
HESPERIA CITY	HESPERIA CITY IN SAN BERNARDINO COUNTY
HIGHLAND CITY	HIGHLAND CITY IN SAN BERNARDINO COUNTY
BALANCE OF HUMBOLDT COUNTY	HUMBOLDT COUNTY LESS EUREKA CITY
HUNTINGTON PARK CITY	HUNTINGTON PARK CITY IN LOS ANGELES COUNTY
IMPERIAL BEACH CITY	IMPERIAL BEACH CITY IN SAN DIEGO COUNTY
BALANCE OF IMPERIAL COUNTY	IMPERIAL COUNTY LESS EL CENTRO CITY
INDIO CITY	INDIO CITY IN RIVERSIDE COUNTY
INGLEWOOD CITY	INGLEWOOD CITY IN LOS ANGELES COUNTY
INYO COUNTY	INYO COUNTY
BALANCE OF KERN COUNTY	KERN COUNTY LESS BAKERSFIELD CITY DELANO CITY RIDGECREST CITY
BALANCE OF KINGS COUNTY	KINGS COUNTY LESS HANFORD CITY
LA PUENTE CITY	LA PUENTE CITY IN LOS ANGELES COUNTY
LAKE COUNTY	LAKE COUNTY
LANCASTER CITY	LANCASTER CITY IN LOS ANGELES COUNTY
LASSEN COUNTY	LASSEN COUNTY
LAWNDALE CITY	LAWNDALE CITY IN LOS ANGELES COUNTY
LEMON GROVE CITY	LEMON GROVE CITY IN SAN DIEGO COUNTY
LODI CITY	LODI CITY IN SAN JOAQUIN COUNTY
LOMPOC CITY	LOMPOC CITY IN SANTA BARBARA COUNTY
LONG BEACH CITY	LONG BEACH CITY IN LOS ANGELES COUNTY
LOS ANGELES CITY	LOS ANGELES CITY IN LOS ANGELES COUNTY
BALANCE OF LOS ANGELES COUNTY	LOS ANGELES COUNTY LESS AGOURA HILLS CITY ALHAMBRA CITY ARCADIA CITY AZUSA CITY BALDWIN PARK CITY BELL CITY BELL GARDENS CITY BELLFLOWER CITY BEVERLY HILLS CITY BURBANK CITY CARSON CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	CERRITOS CITY
	CLAREMONT CITY
	COMPTON CITY
	COVINA CITY
	CULVER CITY
	DIAMOND BAR CITY
	DOWNEY CITY
	EL MONTE CITY
	GARDENA CITY
	GLENDALE CITY
	GLENDORA CITY
	HAWTHORNE CITY
	HUNTINGTON PARK CITY
	INGLEWOOD CITY
	LA MIRADA CITY
	LA PUENTE CITY
	LA VERNE CITY
	LAKEWOOD CITY
	LANCASTER CITY
	LAWNDALE CITY
	LONG BEACH CITY
	LOS ANGELES CITY
	LYNWOOD CITY
	MANHATTAN BEACH CITY
	MAYWOOD CITY
	MONROVIA CITY
	MONTEBELLO CITY
	MONTEREY PARK CITY
	NORWALK CITY
	PALMDALE CITY
	PARAMOUNT CITY
	PASADENA CITY
	PICO RIVERA CITY
	POMONA CITY
	RANCHO PALOS VERDES CITY
	REDONDO BEACH CITY
	ROSEMEAD CITY
	SAN DIMAS CITY
	SAN GABRIEL CITY
	SANTA CLARITA CITY
	SANTA MONICA CITY
	SOUTH GATE CITY
	TEMPLE CITY
	TORRANCE CITY
	WALNUT CITY
	WEST COVINA CITY
	WEST HOLLYWOOD CITY
	WHITTIER CITY
LYNWOOD CITY	LYNWOOD CITY IN
	LOS ANGELES COUNTY
MADERA CITY	MADERA CITY IN
	MADERA COUNTY
BALANCE OF MADERA COUNTY	MADERA COUNTY LESS
	MADERA CITY
MANTECA CITY	MANTECA CITY IN
	SAN JOAQUIN COUNTY
MARINA CITY	MARINA CITY IN
	MONTEREY COUNTY
MARIPOSA COUNTY	MARIPOSA COUNTY
MAYWOOD CITY	MAYWOOD CITY IN
	LOS ANGELES COUNTY
MENDOCINO COUNTY	MENDOCINO COUNTY
MERCED CITY	MERCED CITY IN
	MERCED COUNTY
BALANCE OF MERCED COUNTY	MERCED COUNTY LESS
	MERCED CITY
MODESTO CITY	MODESTO CITY IN
	STANISLAUS COUNTY
MODOC COUNTY	MODOC COUNTY
MONO COUNTY	MONO COUNTY
MONROVIA CITY	MONROVIA CITY IN

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	LOS ANGELES COUNTY
MONTCLAIR CITY	MONTCLAIR CITY IN SAN BERNARDINO COUNTY
MONTEBELLO CITY	MONTEBELLO CITY IN LOS ANGELES COUNTY
BALANCE OF MONTEREY COUNTY	MONTEREY COUNTY LESS MARINA CITY MONTEREY CITY SALINAS CITY SEASIDE CITY
MONTEREY PARK CITY	MONTEREY PARK CITY IN LOS ANGELES COUNTY
MORENO VALLEY CITY	MORENO VALLEY CITY IN RIVERSIDE COUNTY
MURRIETA CITY	MURRIETA CITY IN RIVERSIDE COUNTY
NAPA CITY	NAPA CITY IN NAPA COUNTY
NATIONAL CITY	NATIONAL CITY IN SAN DIEGO COUNTY
NEVADA COUNTY	NEVADA COUNTY
NORCO CITY	NORCO CITY IN RIVERSIDE COUNTY
NORWALK CITY	NORWALK CITY IN LOS ANGELES COUNTY
OAKLAND CITY	OAKLAND CITY IN ALAMEDA COUNTY
OCEANSIDE CITY	OCEANSIDE CITY IN SAN DIEGO COUNTY
ONTARIO CITY	ONTARIO CITY IN SAN BERNARDINO COUNTY
OXNARD CITY	OXNARD CITY IN VENTURA COUNTY
PALM SPRINGS CITY	PALM SPRINGS CITY IN RIVERSIDE COUNTY
PALMDALE CITY	PALMDALE CITY IN LOS ANGELES COUNTY
PARADISE CITY	PARADISE CITY IN BUTTE COUNTY
PARAMOUNT CITY	PARAMOUNT CITY IN LOS ANGELES COUNTY
PASADENA CITY	PASADENA CITY IN LOS ANGELES COUNTY
PERRIS CITY	PERRIS CITY IN RIVERSIDE COUNTY
PICO RIVERA CITY	PICO RIVERA CITY IN LOS ANGELES COUNTY
PITTSBURG CITY	PITTSBURG CITY IN CONTRA COSTA COUNTY
PLUMAS COUNTY	PLUMAS COUNTY
POMONA CITY	POMONA CITY IN LOS ANGELES COUNTY
PORTERVILLE CITY	PORTERVILLE CITY IN TULARE COUNTY
REDDING CITY	REDDING CITY IN SHASTA COUNTY
RIALTO CITY	RIALTO CITY IN SAN BERNARDINO COUNTY
RICHMOND CITY	RICHMOND CITY IN CONTRA COSTA COUNTY
RIDGECREST CITY	RIDGECREST CITY IN KERN COUNTY
RIVERSIDE CITY	RIVERSIDE CITY IN RIVERSIDE COUNTY
BALANCE OF RIVERSIDE COUNTY	RIVERSIDE COUNTY LESS CATHEDRAL CITY CORONA CITY HEMET CITY INDIO CITY MORENO VALLEY CITY MURRIETA CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	NORCO CITY
	PALM DESERT CITY
	PALM SPRINGS CITY
	PERRIS CITY
	RIVERSIDE CITY
	TEMECULA CITY
ROSEMEAD CITY	ROSEMEAD CITY IN
	LOS ANGELES COUNTY
SACRAMENTO CITY	SACRAMENTO CITY IN
	SACRAMENTO COUNTY
SALINAS CITY	SALINAS CITY IN
	MONTEREY COUNTY
SAN BENITO COUNTY	SAN BENITO COUNTY
SAN BERNARDINO CITY	SAN BERNARDINO CITY IN
	SAN BERNARDINO COUNTY
BALANCE OF SAN BERNARDINO COUNTY	SAN BERNARDINO COUNTY LESS
	APPLE VALLEY CITY
	CHINO CITY
	COLTON CITY
	FONTANA CITY
	HESPERIA CITY
	HIGHLAND CITY
	MONTCLAIR CITY
	ONTARIO CITY
	RANCHO CUCAMONGA CITY
	REDLANDS CITY
	RIALTO CITY
	SAN BERNARDINO CITY
	UPLAND CITY
	VICTORVILLE CITY
	YUCAIPA CITY
SAN GABRIEL CITY	SAN GABRIEL CITY IN
	LOS ANGELES COUNTY
BALANCE OF SAN JOAQUIN COUNTY	SAN JOAQUIN COUNTY LESS
	LODI CITY
	MANTECA CITY
	STOCKTON CITY
	TRACEY CITY
SAN LUIS OBISPO CITY	SAN LUIS OBISPO CITY IN
	SAN LUIS OBISPO COUNTY
SAN PABLO CITY	SAN PABLO CITY IN
	CONTRA COSTA COUNTY
SANTA ANA CITY	SANTA ANA CITY IN
	ORANGE COUNTY
SANTA CRUZ CITY	SANTA CRUZ CITY IN
	SANTA CRUZ COUNTY
BALANCE OF SANTA CRUZ COUNTY	SANTA CRUZ COUNTY LESS
	SANTA CRUZ CITY
	WATSONVILLE CITY
SANTA MARIA CITY	SANTA MARIA CITY IN
	SANTA BARBARA COUNTY
SANTA PAULA CITY	SANTA PAULA CITY IN
	VENTURA COUNTY
SEASIDE CITY	SEASIDE CITY IN
	MONTEREY COUNTY
BALANCE OF SHASTA COUNTY	SHASTA COUNTY LESS
	REDDING CITY
SIERRA COUNTY	SIERRA COUNTY
SISKIYOU COUNTY	SISKIYOU COUNTY
BALANCE OF SOLANO COUNTY	SOLANO COUNTY LESS
	BENICIA CITY
	FAIRFIELD CITY
	SUISON CITY
	VACAVILLE CITY
	VALLEJO CITY
SOUTH GATE CITY	SOUTH GATE CITY IN
	LOS ANGELES COUNTY
BALANCE OF STANISLAUS COUNTY	STANISLAUS COUNTY LESS
	CERES CITY
	MODESTO CITY
	TURLOCK CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
STANTON CITY	STANTON CITY IN ORANGE COUNTY
STOCKTON CITY	STOCKTON CITY IN SAN JOAQUIN COUNTY
SUISON CITY	SUISON CITY IN SOLANO COUNTY
BALANCE OF SUTTER COUNTY	SUTTER COUNTY LESS YUBA CITY
TEHAMA COUNTY	TEHAMA COUNTY
TRACEY CITY	TRACEY CITY IN SAN JOAQUIN COUNTY
TRINITY COUNTY	TRINITY COUNTY
TULARE CITY	TULARE CITY IN TULARE COUNTY
BALANCE OF TULARE COUNTY	TULARE COUNTY LESS PORTERVILLE CITY TULARE CITY VISALIA CITY
TUOLUMNE COUNTY	TUOLUMNE COUNTY
TURLOCK CITY	TURLOCK CITY IN STANISLAUS COUNTY
VALLEJO CITY	VALLEJO CITY IN SOLANO COUNTY
BALANCE OF VENTURA COUNTY	VENTURA COUNTY LESS CAMARILLO CITY MOORPARK CITY OXNARD CITY SANTA PAULA CITY SIMI VALLEY CITY THOUSAND OAKS CITY VENTURA CITY
VICTORVILLE CITY	VICTORVILLE CITY IN SAN BERNARDINO COUNTY
VISALIA CITY	VISALIA CITY IN TULARE COUNTY
VISTA CITY	VISTA CITY IN SAN DIEGO COUNTY
WATSONVILLE CITY	WATSONVILLE CITY IN SANTA CRUZ COUNTY
WEST HOLLYWOOD CITY	WEST HOLLYWOOD CITY IN LOS ANGELES COUNTY
WEST SACRAMENTO CITY	WEST SACRAMENTO CITY IN YOLO COUNTY
WOODLAND CITY	WOODLAND CITY IN YOLO COUNTY
BALANCE OF YOLO COUNTY	YOLO COUNTY LESS DAVIS CITY WEST SACRAMENTO CITY WOODLAND CITY
YUBA CITY	YUBA CITY IN SUTTER COUNTY
YUBA COUNTY	YUBA COUNTY
COLORADO	
CONEJOS COUNTY	CONEJOS COUNTY
COSTILLA COUNTY	COSTILLA COUNTY
DOLORES COUNTY	DOLORES COUNTY
JACKSON COUNTY	JACKSON COUNTY
MINERAL COUNTY	MINERAL COUNTY
RIO GRANDE COUNTY	RIO GRANDE COUNTY
SAGUACHE COUNTY	SAGUACHE COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
CONNECTICUT	
ANSONIA TOWN	ANSONIA TOWN
BRIDGEPORT CITY	BRIDGEPORT CITY
EAST HARTFORD CITY	EAST HARTFORD CITY
HARTFORD CITY	HARTFORD CITY
KILLINGLY TOWN	KILLINGLY TOWN

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
MERIDEN CITY	MERIDEN CITY
NEW BRITAIN CITY	NEW BRITAIN CITY
NEW LONDON CITY	NEW LONDON CITY
PLAINFIELD TOWN	PLAINFIELD TOWN
PUTNAM TOWN	PUTNAM TOWN
STERLING TOWN	STERLING TOWN
VOLUNTOWN TOWN	VOLUNTOWN TOWN
WATERBURY CITY	WATERBURY CITY
WINCHESTER TOWN	WINCHESTER TOWN
WINDHAM TOWN	WINDHAM TOWN
DISTRICT OF COLUMBIA	
WASHINGTON DC CITY	WASHINGTON DC CITY IN DISTRICT OF COLUMBIA
FLORIDA	
BOYNTON BEACH CITY	BOYNTON BEACH CITY IN PALM BEACH COUNTY
CITRUS COUNTY	CITRUS COUNTY
COCONUT CREEK CITY	COCONUT CREEK CITY IN BROWARD COUNTY
COLLIER COUNTY	COLLIER COUNTY
DAYTONA BEACH CITY	DAYTONA BEACH CITY IN VOLUSIA COUNTY
DE SOTO COUNTY	DE SOTO COUNTY
DELRAY BEACH CITY	DELRAY BEACH CITY IN PALM BEACH COUNTY
DIXIE COUNTY	DIXIE COUNTY
FORT PIERCE CITY	FORT PIERCE CITY IN ST. LUCIE COUNTY
FT LAUDERDALE CITY	FT LAUDERDALE CITY IN BROWARD COUNTY
GLADES COUNTY	GLADES COUNTY
GREENACRES CITY	GREENACRES CITY IN PALM BEACH COUNTY
HALLANDALE CITY	HALLANDALE CITY IN BROWARD COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HARDEE COUNTY	HARDEE COUNTY
HENDRY COUNTY	HENDRY COUNTY
HIALEAH CITY	HIALEAH CITY IN DADE COUNTY
HIGHLANDS COUNTY	HIGHLANDS COUNTY
HOMESTEAD CITY	HOMESTEAD CITY IN DADE COUNTY
INDIAN RIVER COUNTY	INDIAN RIVER COUNTY
LAKE WORTH CITY	LAKE WORTH CITY IN PALM BEACH COUNTY
LAKELAND CITY	LAKELAND CITY IN POLK COUNTY
LAUDERDALE LAKES CITY	LAUDERDALE LAKES CITY IN BROWARD COUNTY
MARTIN COUNTY	MARTIN COUNTY
MELBOURNE CITY	MELBOURNE CITY IN BREVARD COUNTY
MIAMI BEACH CITY	MIAMI BEACH CITY IN DADE COUNTY
MIAMI CITY	MIAMI CITY IN DADE COUNTY
NORTH MIAMI CITY	NORTH MIAMI CITY IN DADE COUNTY
OKEECHOBEE COUNTY	OKEECHOBEE COUNTY
PALM BAY CITY	PALM BAY CITY IN BREVARD COUNTY
BALANCE OF PALM BEACH COUNTY	PALM BEACH COUNTY LESS BOCA RATON CITY BOYNTON BEACH CITY DELRAY BEACH CITY GREENACRES CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	JUPITER CITY
	LAKE WORTH CITY
	PALM BEACH GARDENS CITY
	RIVIERA BEACH CITY
	WEST PALM BEACH CITY
PANAMA CITY	PANAMA CITY IN
	BAY COUNTY
BALANCE OF POLK COUNTY	POLK COUNTY LESS
	LAKELAND CITY
POMPANO BEACH CITY	POMPANO BEACH CITY IN
	BROWARD COUNTY
PORT ST. LUCIE CITY	PORT ST. LUCIE CITY IN
	ST. LUCIE COUNTY
RIVIERA BEACH CITY	RIVIERA BEACH CITY IN
	PALM BEACH COUNTY
BALANCE OF ST. LUCIE COUNTY	ST. LUCIE COUNTY LESS
	FORT PIERCE CITY
	PORT ST. LUCIE CITY
TAYLOR COUNTY	TAYLOR COUNTY
WEST PALM BEACH CITY	WEST PALM BEACH CITY IN
	PALM BEACH COUNTY
GEORGIA	
ALBANY CITY	ALBANY CITY IN
	DOUGHERTY COUNTY
APPLING COUNTY	APPLING COUNTY
ATLANTA CITY	ATLANTA CITY IN
	DE KALB COUNTY
	FULTON COUNTY
AUGUSTA CITY	AUGUSTA CITY IN
	RICHMOND COUNTY
BAKER COUNTY	BAKER COUNTY
BRANTLEY COUNTY	BRANTLEY COUNTY
BURKE COUNTY	BURKE COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CHATTAHOOCHEE COUNTY	CHATTAHOOCHEE COUNTY
DECATUR COUNTY	DECATUR COUNTY
DOOLY COUNTY	DOOLY COUNTY
EARLY COUNTY	EARLY COUNTY
ELBERT COUNTY	ELBERT COUNTY
EMANUEL COUNTY	EMANUEL COUNTY
EVANS COUNTY	EVANS COUNTY
GREENE COUNTY	GREENE COUNTY
HART COUNTY	HART COUNTY
HINESVILLE CITY	HINESVILLE CITY IN
	LIBERTY COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
LA GRANGE CITY	LA GRANGE CITY IN
	TROUP COUNTY
BALANCE OF LIBERTY COUNTY	LIBERTY COUNTY LESS
	HINESVILLE CITY
LINCOLN COUNTY	LINCOLN COUNTY
MACON CITY	MACON CITY IN
	BIBB COUNTY
	JONES COUNTY
MACON COUNTY	MACON COUNTY
MERIWETHER COUNTY	MERIWETHER COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
PEACH COUNTY	PEACH COUNTY
POLK COUNTY	POLK COUNTY
QUITMAN COUNTY	QUITMAN COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SCREVEN COUNTY	SCREVEN COUNTY
TALBOT COUNTY	TALBOT COUNTY
TAYLOR COUNTY	TAYLOR COUNTY
TELFAIR COUNTY	TELFAIR COUNTY
TERRELL COUNTY	TERRELL COUNTY
TOOMBS COUNTY	TOOMBS COUNTY
TREUTLEN COUNTY	TREUTLEN COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
WARREN COUNTY	WARREN COUNTY
WAYNE COUNTY	WAYNE COUNTY
WHEELER COUNTY	WHEELER COUNTY
HAWAII	
HAWAII COUNTY	HAWAII COUNTY
KAUAI COUNTY	KAUAI COUNTY
MAUI COUNTY	MAUI COUNTY
IDAHO	
ADAMS COUNTY	ADAMS COUNTY
BENEWAH COUNTY	BENEWAH COUNTY
BONNER COUNTY	BONNER COUNTY
BOUNDARY COUNTY	BOUNDARY COUNTY
CARIBOU COUNTY	CARIBOU COUNTY
CASSIA COUNTY	CASSIA COUNTY
CLEARWATER COUNTY	CLEARWATER COUNTY
CUSTER COUNTY	CUSTER COUNTY
FREMONT COUNTY	FREMONT COUNTY
GEM COUNTY	GEM COUNTY
IDAHO COUNTY	IDAHO COUNTY
BALANCE OF KOOTENAI COUNTY	KOOTENAI COUNTY LESS COEUR D ALENE CITY
LEMHI COUNTY	LEMHI COUNTY
MINIDOKA COUNTY	MINIDOKA COUNTY
SHOSHONE COUNTY	SHOSHONE COUNTY
VALLEY COUNTY	VALLEY COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
ILLINOIS	
ALEXANDER COUNTY	ALEXANDER COUNTY
ALTON CITY	ALTON CITY IN MADISON COUNTY
BELLEVILLE CITY	BELLEVILLE CITY IN ST. CLAIR COUNTY
CARPENTERSVILLE CITY	CARPENTERSVILLE CITY IN KANE COUNTY
CICERO CITY	CICERO CITY IN COOK COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DANVILLE CITY	DANVILLE CITY IN VERMILION COUNTY
DECATUR CITY	DECATUR CITY IN MACON COUNTY
EAST ST. LOUIS CITY	EAST ST. LOUIS CITY IN ST. CLAIR COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FREEPORT CITY	FREEPORT CITY IN STEPHENSON COUNTY
FULTON COUNTY	FULTON COUNTY
GALLATIN COUNTY	GALLATIN COUNTY
GRANITE CITY	GRANITE CITY IN MADISON COUNTY
GRUNDY COUNTY	GRUNDY COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HARDIN COUNTY	HARDIN COUNTY
HARVEY CITY	HARVEY CITY IN COOK COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
JOLIET CITY	JOLIET CITY IN WILL COUNTY
KANKAKEE CITY	KANKAKEE CITY IN KANKAKEE COUNTY
LA SALLE COUNTY	LA SALLE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
MARION COUNTY	MARION COUNTY
MASON COUNTY	MASON COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
MAYWOOD VILLAGE	MAYWOOD VILLAGE IN COOK COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NORTH CHICAGO CITY	NORTH CHICAGO CITY IN LAKE COUNTY
PERRY COUNTY	PERRY COUNTY
POPE COUNTY	POPE COUNTY
PULASKI COUNTY	PULASKI COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SALINE COUNTY	SALINE COUNTY
UNION COUNTY	UNION COUNTY
WABASH COUNTY	WABASH COUNTY
WAUKEGAN CITY	WAUKEGAN CITY IN LAKE COUNTY
WHITE COUNTY	WHITE COUNTY
WILLIAMSON COUNTY	WILLIAMSON COUNTY
INDIANA	
CASS COUNTY	CASS COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
EAST CHICAGO CITY	EAST CHICAGO CITY IN LAKE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
GARY CITY	GARY CITY IN LAKE COUNTY
GREENE COUNTY	GREENE COUNTY
HAMMOND CITY	HAMMOND CITY IN LAKE COUNTY
MARION CITY	MARION CITY IN GRANT COUNTY
MICHIGAN CITY	MICHIGAN CITY IN LA PORTE COUNTY
ORANGE COUNTY	ORANGE COUNTY
PERRY COUNTY	PERRY COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
RICHMOND CITY	RICHMOND CITY IN WAYNE COUNTY
SULLIVAN COUNTY	SULLIVAN COUNTY
TERRE HAUTE CITY	TERRE HAUTE CITY IN VIGO COUNTY
VERMILLION COUNTY	VERMILLION COUNTY
IOWA	
FLOYD COUNTY	FLOYD COUNTY
KANSAS	
ATCHISON COUNTY	ATCHISON COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
DONIPHAN COUNTY	DONIPHAN COUNTY
GEARY COUNTY	GEARY COUNTY
KANSAS CITY	KANSAS CITY IN WYANDOTTE COUNTY
LABETTE COUNTY	LABETTE COUNTY
LINN COUNTY	LINN COUNTY
OSAGE COUNTY	OSAGE COUNTY
WOODSON COUNTY	WOODSON COUNTY
KENTUCKY	
BALLARD COUNTY	BALLARD COUNTY
BATH COUNTY	BATH COUNTY
BELL COUNTY	BELL COUNTY
BOYD COUNTY	BOYD COUNTY
BREATHITT COUNTY	BREATHITT COUNTY
CARTER COUNTY	CARTER COUNTY
CLAY COUNTY	CLAY COUNTY
CLINTON COUNTY	CLINTON COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
EDMONSON COUNTY	EDMONSON COUNTY
ELLIOTT COUNTY	ELLIOTT COUNTY
ESTILL COUNTY	ESTILL COUNTY
FLOYD COUNTY	FLOYD COUNTY
GRAVES COUNTY	GRAVES COUNTY
GREENUP COUNTY	GREENUP COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARLAN COUNTY	HARLAN COUNTY
JACKSON COUNTY	JACKSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
KNOTT COUNTY	KNOTT COUNTY
KNOX COUNTY	KNOX COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEE COUNTY	LEE COUNTY
LESLIE COUNTY	LESLIE COUNTY
LETCHER COUNTY	LETCHER COUNTY
LEWIS COUNTY	LEWIS COUNTY
MAGOFFIN COUNTY	MAGOFFIN COUNTY
MARION COUNTY	MARION COUNTY
MARTIN COUNTY	MARTIN COUNTY
MC CREARY COUNTY	MC CREARY COUNTY
MC LEAN COUNTY	MC LEAN COUNTY
MENIFEE COUNTY	MENIFEE COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
MORGAN COUNTY	MORGAN COUNTY
MUHLENBERG COUNTY	MUHLENBERG COUNTY
NICHOLAS COUNTY	NICHOLAS COUNTY
OHIO COUNTY	OHIO COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
POWELL COUNTY	POWELL COUNTY
ROCKCASTLE COUNTY	ROCKCASTLE COUNTY
RUSSELL COUNTY	RUSSELL COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WHITLEY COUNTY	WHITLEY COUNTY
WOLFE COUNTY	WOLFE COUNTY
LOUISIANA	
ACADIA PARISH	ACADIA PARISH
ALEXANDRIA CITY	ALEXANDRIA CITY IN RAPIDES PARISH
ALLEN PARISH	ALLEN PARISH
ASCENSION PARISH	ASCENSION PARISH
ASSUMPTION PARISH	ASSUMPTION PARISH
AVOYELLES PARISH	AVOYELLES PARISH
BEAUREGARD PARISH	BEAUREGARD PARISH
BIENVILLE PARISH	BIENVILLE PARISH
CALDWELL PARISH	CALDWELL PARISH
CATAHOULA PARISH	CATAHOULA PARISH
CLAIBORNE PARISH	CLAIBORNE PARISH
CONCORDIA PARISH	CONCORDIA PARISH
DE SOTO PARISH	DE SOTO PARISH
EAST CARROLL PARISH	EAST CARROLL PARISH
EAST FELICIANA PARISH	EAST FELICIANA PARISH
EVANGELINE PARISH	EVANGELINE PARISH
FRANKLIN PARISH	FRANKLIN PARISH
GRANT PARISH	GRANT PARISH
IBERVILLE PARISH	IBERVILLE PARISH
JEFFERSON DAVIS PARISH	JEFFERSON DAVIS PARISH
LA SALLE PARISH	LA SALLE PARISH
LAKE CHARLES CITY	LAKE CHARLES CITY IN CALCASIEU PARISH
LIVINGSTON PARISH	LIVINGSTON PARISH
MADISON PARISH	MADISON PARISH
MONROE CITY	MONROE CITY IN OUACHITA PARISH
MOREHOUSE PARISH	MOREHOUSE PARISH
NATCHITOCHES PARISH	NATCHITOCHES PARISH
NEW IBERIA CITY	NEW IBERIA CITY IN IBERIA PARISH

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
NEW ORLEANS CITY	NEW ORLEANS CITY IN ORLEANS PARISH
PLAQUEMINES PARISH	PLAQUEMINES PARISH
POINTE COUPEE PARISH	POINTE COUPEE PARISH
RED RIVER PARISH	RED RIVER PARISH
RICHLAND PARISH	RICHLAND PARISH
SHREVEPORT CITY	SHREVEPORT CITY IN BOSSIER PARISH CADDO PARISH
ST. BERNARD PARISH	ST. BERNARD PARISH
ST. CHARLES PARISH	ST. CHARLES PARISH
ST. HELENA PARISH	ST. HELENA PARISH
ST. JAMES PARISH	ST. JAMES PARISH
ST. JOHN BAPTIST PARISH	ST. JOHN BAPTIST PARISH
ST. LANDRY PARISH	ST. LANDRY PARISH
ST. MARTIN PARISH	ST. MARTIN PARISH
ST. MARY PARISH	ST. MARY PARISH
TANGIPAHOA PARISH	TANGIPAHOA PARISH
TENSAS PARISH	TENSAS PARISH
VERNON PARISH	VERNON PARISH
WASHINGTON PARISH	WASHINGTON PARISH
WEBSTER PARISH	WEBSTER PARISH
WEST BATON ROUGE PARISH	WEST BATON ROUGE PARISH
WEST CARROLL PARISH	WEST CARROLL PARISH
WEST FELICIANA PARISH	WEST FELICIANA PARISH
MAINE	
AROOSTOOK COUNTY	AROOSTOOK COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
OXFORD COUNTY	OXFORD COUNTY
PISCATAQUIS COUNTY	PISCATAQUIS COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
WALDO COUNTY	WALDO COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
MARYLAND	
ALLEGANY COUNTY	ALLEGANY COUNTY
ANNAPOLIS CITY	ANNAPOLIS CITY IN ANNE ARUNDEL COUNTY
BALTIMORE CITY	BALTIMORE CITY
CECIL COUNTY	CECIL COUNTY
DORCHESTER COUNTY	DORCHESTER COUNTY
GARRETT COUNTY	GARRETT COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
WORCESTER COUNTY	WORCESTER COUNTY
MASSACHUSETTS	
ACUSHNET TOWN	ACUSHNET TOWN IN BRISTOL COUNTY
ADAMS TOWN	ADAMS TOWN IN BERKSHIRE COUNTY
ATHOL TOWN	ATHOL TOWN IN WORCESTER COUNTY
BOURNE TOWN	BOURNE TOWN IN BARNSTABLE COUNTY
BROCKTON CITY	BROCKTON CITY IN PLYMOUTH COUNTY
CHELSEA CITY	CHELSEA CITY IN SUFFOLK COUNTY
CHESHIRE TOWN	CHESHIRE TOWN IN BERKSHIRE COUNTY
CHESTER TOWN	CHESTER TOWN IN HAMPDEN COUNTY
DARTMOUTH TOWN	DARTMOUTH TOWN IN BRISTOL COUNTY
DENNIS TOWN	DENNIS TOWN IN BARNSTABLE COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
EASTHAM TOWN	EASTHAM TOWN IN BARNSTABLE COUNTY
EDGARTOWN TOWN	EDGARTOWN TOWN IN DUKES COUNTY
FAIRHAVEN TOWN	FAIRHAVEN TOWN IN BRISTOL COUNTY
FALL RIVER CITY	FALL RIVER CITY IN BRISTOL COUNTY
FREETOWN TOWN	FREETOWN TOWN IN BRISTOL COUNTY
GAY HEAD TOWN	GAY HEAD TOWN IN DUKES COUNTY
GLOUCESTER CITY	GLOUCESTER CITY IN ESSEX COUNTY
HARDWICK TOWN	HARDWICK TOWN IN WORCESTER COUNTY
HAWLEY TOWN	HAWLEY TOWN IN FRANKLIN COUNTY
HINSDALE TOWN	HINSDALE TOWN IN BERKSHIRE COUNTY
HOLYOKE CITY	HOLYOKE CITY IN HAMPDEN COUNTY
HUBBARDSTON TOWN	HUBBARDSTON TOWN IN WORCESTER COUNTY
HULL TOWN	HULL TOWN IN PLYMOUTH COUNTY
HUNTINGTON TOWN	HUNTINGTON TOWN IN HAMPSHIRE COUNTY
LAWRENCE CITY	LAWRENCE CITY IN ESSEX COUNTY
LEE TOWN	LEE TOWN IN BERKSHIRE COUNTY
LOWELL CITY	LOWELL CITY IN MIDDLESEX COUNTY
LUDLOW TOWN	LUDLOW TOWN IN HAMPDEN COUNTY
MASHPEE TOWN	MASHPEE TOWN IN BARNSTABLE COUNTY
METHUEN TOWN	METHUEN TOWN IN ESSEX COUNTY
MIDDLEBOROUGH TOWN	MIDDLEBOROUGH TOWN IN PLYMOUTH COUNTY
MONROE TOWN	MONROE TOWN IN FRANKLIN COUNTY
NEW BEDFORD CITY	NEW BEDFORD CITY IN BRISTOL COUNTY
NEW SALEM TOWN	NEW SALEM TOWN IN FRANKLIN COUNTY
NORTH ADAMS TOWN	NORTH ADAMS TOWN IN BERKSHIRE COUNTY
ORANGE TOWN	ORANGE TOWN IN FRANKLIN COUNTY
PALMER TOWN	PALMER TOWN IN HAMPDEN COUNTY
PHILLIPSTON TOWN	PHILLIPSTON TOWN IN WORCESTER COUNTY
PITTSFIELD CITY	PITTSFIELD CITY IN BERKSHIRE COUNTY
PROVINCETOWN TOWN	PROVINCETOWN TOWN IN BARNSTABLE COUNTY
REHOBOTH TOWN	REHOBOTH TOWN IN BRISTOL COUNTY
REVERE CITY	REVERE CITY IN SUFFOLK COUNTY
ROWE TOWN	ROWE TOWN IN FRANKLIN COUNTY
RUSSELL TOWN	RUSSELL TOWN IN HAMPDEN COUNTY
SANDISFIELD TOWN	SANDISFIELD TOWN IN BERKSHIRE COUNTY
SAVOY TOWN	SAVOY TOWN IN

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	BERKSHIRE COUNTY
SEEKONK TOWN	SEEKONK TOWN IN
	BRISTOL COUNTY
SHELBURNE TOWN	SHELBURNE TOWN IN
	FRANKLIN COUNTY
SOMERSET TOWN	SOMERSET TOWN IN
	BRISTOL COUNTY
SOUTHWICK TOWN	SOUTHWICK TOWN IN
	HAMPDEN COUNTY
SPRINGFIELD CITY	SPRINGFIELD CITY IN
	HAMPDEN COUNTY
SWANSEA TOWN	SWANSEA TOWN IN
	BRISTOL COUNTY
TISBURY TOWN	TISBURY TOWN IN
	DUKES COUNTY
TOLLAND TOWN	TOLLAND TOWN IN
	HAMPDEN COUNTY
TRURO TOWN	TRURO TOWN IN
	BARNSTABLE COUNTY
WAREHAM TOWN	WAREHAM TOWN IN
	PLYMOUTH COUNTY
WELLFLEET TOWN	WELLFLEET TOWN IN
	BARNSTABLE COUNTY
WEST SPRINGFIELD CITY	WEST SPRINGFIELD CITY IN
	HAMPDEN COUNTY
WESTPORT TOWN	WESTPORT TOWN IN
	BRISTOL COUNTY
WINCHENDON TOWN	WINCHENDON TOWN IN
	WORCESTER COUNTY
YARMOUTH TOWN	YARMOUTH TOWN IN
	BARNSTABLE COUNTY
MICHIGAN	
ALCONA COUNTY	ALCONA COUNTY
ALGER COUNTY	ALGER COUNTY
ALPENA COUNTY	ALPENA COUNTY
ANTRIM COUNTY	ANTRIM COUNTY
ARENAC COUNTY	ARENAC COUNTY
BARAGA COUNTY	BARAGA COUNTY
BAY CITY	BAY CITY IN
	BAY COUNTY
BENZIE COUNTY	BENZIE COUNTY
BURTON CITY	BURTON CITY IN
	GENESEE COUNTY
CHARLEVOIX COUNTY	CHARLEVOIX COUNTY
CHEBOYGAN COUNTY	CHEBOYGAN COUNTY
CHIPPEWA COUNTY	CHIPPEWA COUNTY
CLARE COUNTY	CLARE COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DELTA COUNTY	DELTA COUNTY
DETROIT CITY	DETROIT CITY IN
	WAYNE COUNTY
EMMET COUNTY	EMMET COUNTY
FLINT CITY	FLINT CITY IN
	GENESEE COUNTY
GLADWIN COUNTY	GLADWIN COUNTY
GOGEBIC COUNTY	GOGEBIC COUNTY
GRATIOT COUNTY	GRATIOT COUNTY
HIGHLAND PARK CITY	HIGHLAND PARK CITY IN
	WAYNE COUNTY
HOUGHTON COUNTY	HOUGHTON COUNTY
HURON COUNTY	HURON COUNTY
INKSTER CITY	INKSTER CITY IN
	WAYNE COUNTY
IOSCO COUNTY	IOSCO COUNTY
IRON COUNTY	IRON COUNTY
JACKSON CITY	JACKSON CITY IN
	JACKSON COUNTY
KALKASKA COUNTY	KALKASKA COUNTY
KEWEENAW COUNTY	KEWEENAW COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
LAKE COUNTY	LAKE COUNTY
LUCE COUNTY	LUCE COUNTY
MACKINAC COUNTY	MACKINAC COUNTY
MANISTEE COUNTY	MANISTEE COUNTY
MARQUETTE COUNTY	MARQUETTE COUNTY
MASON COUNTY	MASON COUNTY
BALANCE OF MIDLAND COUNTY	MIDLAND COUNTY LESS MIDLAND CITY
MISSAUKEE COUNTY	MISSAUKEE COUNTY
MONTCALM COUNTY	MONTCALM COUNTY
MONTMORENCY COUNTY	MONTMORENCY COUNTY
MOUNT MORRIS TOWNSHIP	MOUNT MORRIS TOWNSHIP IN GENESEE COUNTY
MUSKEGON CITY	MUSKEGON CITY IN MUSKEGON COUNTY
NEWAYGO COUNTY	NEWAYGO COUNTY
OCEANA COUNTY	OCEANA COUNTY
OGEMAW COUNTY	OGEMAW COUNTY
ONTONAGON COUNTY	ONTONAGON COUNTY
OSCEOLA COUNTY	OSCEOLA COUNTY
OSCODA COUNTY	OSCODA COUNTY
PONTIAC CITY	PONTIAC CITY IN OAKLAND COUNTY
PORT HURON CITY	PORT HURON CITY IN ST. CLAIR COUNTY
PRESQUE ISLE COUNTY	PRESQUE ISLE COUNTY
ROSCOMMON COUNTY	ROSCOMMON COUNTY
SAGINAW CITY	SAGINAW CITY IN SAGINAW COUNTY
SANILAC COUNTY	SANILAC COUNTY
SCHOOLCRAFT COUNTY	SCHOOLCRAFT COUNTY
SHIAWASSEE COUNTY	SHIAWASSEE COUNTY
TUSCOLA COUNTY	TUSCOLA COUNTY
WEXFORD COUNTY	WEXFORD COUNTY
MINNESOTA	
AITKIN COUNTY	AITKIN COUNTY
BECKER COUNTY	BECKER COUNTY
CARLTON COUNTY	CARLTON COUNTY
CASS COUNTY	CASS COUNTY
CLEARWATER COUNTY	CLEARWATER COUNTY
HUBBARD COUNTY	HUBBARD COUNTY
ITASCA COUNTY	ITASCA COUNTY
KANABEC COUNTY	KANABEC COUNTY
KOOCHICHING COUNTY	KOOCHICHING COUNTY
MAHNOMEN COUNTY	MAHNOMEN COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MILLE LACS COUNTY	MILLE LACS COUNTY
MORRISON COUNTY	MORRISON COUNTY
PINE COUNTY	PINE COUNTY
RED LAKE COUNTY	RED LAKE COUNTY
MISSISSIPPI	
ADAMS COUNTY	ADAMS COUNTY
ALCORN COUNTY	ALCORN COUNTY
ATTALA COUNTY	ATTALA COUNTY
BENTON COUNTY	BENTON COUNTY
BOLIVAR COUNTY	BOLIVAR COUNTY
CHICKASAW COUNTY	CHICKASAW COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
CLAIBORNE COUNTY	CLAIBORNE COUNTY
CLAY COUNTY	CLAY COUNTY
COAHOMA COUNTY	COAHOMA COUNTY
COLUMBUS CITY	COLUMBUS CITY IN LOWNDES COUNTY
COPIAH COUNTY	COPIAH COUNTY
GEORGE COUNTY	GEORGE COUNTY
GREENE COUNTY	GREENE COUNTY
GREENVILLE CITY	GREENVILLE CITY IN

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	WASHINGTON COUNTY
GULFPORT CITY	GULFPORT CITY IN HARRISON COUNTY
HOLMES COUNTY	HOLMES COUNTY
HUMPHREYS COUNTY	HUMPHREYS COUNTY
ISSAQUENA COUNTY	ISSAQUENA COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JEFFERSON DAVIS COUNTY	JEFFERSON DAVIS COUNTY
KEMPER COUNTY	KEMPER COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEFLORE COUNTY	LEFLORE COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MONROE COUNTY	MONROE COUNTY
NEWTON COUNTY	NEWTON COUNTY
NOXUBEE COUNTY	NOXUBEE COUNTY
PANOLA COUNTY	PANOLA COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
QUITMAN COUNTY	QUITMAN COUNTY
SHARKEY COUNTY	SHARKEY COUNTY
STONE COUNTY	STONE COUNTY
SUNFLOWER COUNTY	SUNFLOWER COUNTY
TALLAHATCHIE COUNTY	TALLAHATCHIE COUNTY
TISHOMINGO COUNTY	TISHOMINGO COUNTY
TUNICA COUNTY	TUNICA COUNTY
BALANCE OF WASHINGTON COUNTY	WASHINGTON COUNTY LESS GREENVILLE CITY
WAYNE COUNTY	WAYNE COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WILKINSON COUNTY	WILKINSON COUNTY
WINSTON COUNTY	WINSTON COUNTY
YAZOO COUNTY	YAZOO COUNTY
MISSOURI	
BENTON COUNTY	BENTON COUNTY
CAMDEN COUNTY	CAMDEN COUNTY
CARTER COUNTY	CARTER COUNTY
DOUGLAS COUNTY	DOUGLAS COUNTY
DUNKLIN COUNTY	DUNKLIN COUNTY
IRON COUNTY	IRON COUNTY
LINN COUNTY	LINN COUNTY
MADISON COUNTY	MADISON COUNTY
MILLER COUNTY	MILLER COUNTY
MISSISSIPPI COUNTY	MISSISSIPPI COUNTY
NEW MADRID COUNTY	NEW MADRID COUNTY
PEMISCOT COUNTY	PEMISCOT COUNTY
PIKE COUNTY	PIKE COUNTY
PULASKI COUNTY	PULASKI COUNTY
RIPLEY COUNTY	RIPLEY COUNTY
ST JOSEPH CITY	ST JOSEPH CITY IN BUCHANAN COUNTY
ST LOUIS CITY	ST LOUIS CITY
ST. FRANCOIS COUNTY	ST. FRANCOIS COUNTY
STODDARD COUNTY	STODDARD COUNTY
STONE COUNTY	STONE COUNTY
TANEY COUNTY	TANEY COUNTY
TEXAS COUNTY	TEXAS COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WAYNE COUNTY	WAYNE COUNTY
WRIGHT COUNTY	WRIGHT COUNTY
MONTANA	
ANACONDA-DEER LODGE COUNTY	ANACONDA-DEER LODGE COUNTY
BIG HORN COUNTY	BIG HORN COUNTY
BLAINE COUNTY	BLAINE COUNTY
FLATHEAD COUNTY	FLATHEAD COUNTY
GLACIER COUNTY	GLACIER COUNTY
LAKE COUNTY	LAKE COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
LINCOLN COUNTY	LINCOLN COUNTY
MINERAL COUNTY	MINERAL COUNTY
MUSSELSHELL COUNTY	MUSSELSHELL COUNTY
POWELL COUNTY	POWELL COUNTY
ROOSEVELT COUNTY	ROOSEVELT COUNTY
ROSEBUD COUNTY	ROSEBUD COUNTY
SANDERS COUNTY	SANDERS COUNTY
BALANCE OF SILVER BOW COUNTY	SILVER BOW COUNTY LESS BUTTE-SILVER BOW CITY
NEVADA	
CARSON CITY	CARSON CITY
CHURCHILL COUNTY	CHURCHILL COUNTY
EUREKA COUNTY	EUREKA COUNTY
LANDER COUNTY	LANDER COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LYON COUNTY	LYON COUNTY
MINERAL COUNTY	MINERAL COUNTY
NORTH LAS VEGAS CITY	NORTH LAS VEGAS CITY IN CLARK COUNTY
WHITE PINE COUNTY	WHITE PINE COUNTY
NEW JERSEY	
ATLANTIC CITY	ATLANTIC CITY IN ATLANTIC COUNTY
BALANCE OF ATLANTIC COUNTY	ATLANTIC COUNTY LESS ATLANTIC CITY EGG HARBOR TOWNSHIP
BERKELEY TOWNSHIP	BERKELEY TOWNSHIP IN OCEAN COUNTY
CAMDEN CITY	CAMDEN CITY IN CAMDEN COUNTY
CAPE MAY COUNTY	CAPE MAY COUNTY
CITY OF ORANGE TOWNSHIP	CITY OF ORANGE TOWNSHIP IN ESSEX COUNTY
BALANCE OF CUMBERLAND COUNTY	CUMBERLAND COUNTY LESS MILLVILLE CITY VINELAND CITY
EAST ORANGE CITY	EAST ORANGE CITY IN ESSEX COUNTY
EGG HARBOR TOWNSHIP	EGG HARBOR TOWNSHIP IN ATLANTIC COUNTY
ELIZABETH CITY	ELIZABETH CITY IN UNION COUNTY
GARFIELD CITY	GARFIELD CITY IN BERGEN COUNTY
BALANCE OF GLOUCESTER COUNTY	GLOUCESTER COUNTY LESS MONROE TOWNSHIP WASHINGTON TOWNSHIP
HACKENSACK CITY	HACKENSACK CITY IN BERGEN COUNTY
IRVINGTON TOWNSHIP	IRVINGTON TOWNSHIP IN ESSEX COUNTY
JERSEY CITY	JERSEY CITY IN HUDSON COUNTY
LAKEWOOD TOWNSHIP	LAKEWOOD TOWNSHIP IN OCEAN COUNTY
LINDEN CITY	LINDEN CITY IN UNION COUNTY
LONG BRANCH CITY	LONG BRANCH CITY IN MONMOUTH COUNTY
MANCHESTER TOWNSHIP	MANCHESTER TOWNSHIP IN OCEAN COUNTY
MILLVILLE CITY	MILLVILLE CITY IN CUMBERLAND COUNTY
NEW BRUNSWICK CITY	NEW BRUNSWICK CITY IN MIDDLESEX COUNTY
NEWARK CITY	NEWARK CITY IN ESSEX COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
NORTH BERGEN TOWNSHIP	NORTH BERGEN TOWNSHIP IN HUDSON COUNTY
PASSAIC CITY	PASSAIC CITY IN PASSAIC COUNTY
PATERSON CITY	PATERSON CITY IN PASSAIC COUNTY
PEMBERTON TOWNSHIP	PEMBERTON TOWNSHIP IN BURLINGTON COUNTY
PERTH AMBOY CITY	PERTH AMBOY CITY IN MIDDLESEX COUNTY
PLAINFIELD CITY	PLAINFIELD CITY IN UNION COUNTY
TRENTON CITY	TRENTON CITY IN MERCER COUNTY
UNION CITY	UNION CITY IN HUDSON COUNTY
VINELAND CITY	VINELAND CITY IN CUMBERLAND COUNTY
WEST NEW YORK TOWN	WEST NEW YORK TOWN IN HUDSON COUNTY
NEW MEXICO	
CARLSBAD CITY	CARLSBAD CITY IN EDDY COUNTY
CATRON COUNTY	CATRON COUNTY
CIBOLA COUNTY	CIBOLA COUNTY
COLFAX COUNTY	COLFAX COUNTY
BALANCE OF DONA ANA COUNTY	DONA ANA COUNTY LESS LAS CRUCES CITY
BALANCE OF EDDY COUNTY	EDDY COUNTY LESS CARLSBAD CITY
GRANT COUNTY	GRANT COUNTY
GUADALUPE COUNTY	GUADALUPE COUNTY
LAS CRUCES CITY	LAS CRUCES CITY IN DONA ANA COUNTY
LUNA COUNTY	LUNA COUNTY
MC KINLEY COUNTY	MC KINLEY COUNTY
MORA COUNTY	MORA COUNTY
BALANCE OF OTERO COUNTY	OTERO COUNTY LESS ALAMOGORDO CITY
RIO ARRIBA COUNTY	RIO ARRIBA COUNTY
ROSWELL CITY	ROSWELL CITY IN CHAVES COUNTY
BALANCE OF SAN JUAN COUNTY	SAN JUAN COUNTY LESS FARMINGTON CITY
SAN MIGUEL COUNTY	SAN MIGUEL COUNTY
SOCORRO COUNTY	SOCORRO COUNTY
TAOS COUNTY	TAOS COUNTY
NEW YORK	
ALLEGANY COUNTY	ALLEGANY COUNTY
AUBURN CITY	AUBURN CITY IN CAYUGA COUNTY
BINGHAMTON CITY	BINGHAMTON CITY IN BROOME COUNTY
BRONX COUNTY	BRONX COUNTY
BUFFALO CITY	BUFFALO CITY IN ERIE COUNTY
CATTARAUGUS COUNTY	CATTARAUGUS COUNTY
CHENANGO COUNTY	CHENANGO COUNTY
CLINTON COUNTY	CLINTON COUNTY
CORTLAND COUNTY	CORTLAND COUNTY
ELMIRA CITY	ELMIRA CITY IN CHEMUNG COUNTY
ESSEX COUNTY	ESSEX COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FULTON COUNTY	FULTON COUNTY
GREENE COUNTY	GREENE COUNTY
HAMILTON COUNTY	HAMILTON COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
HEMPSTEAD VILLAGE	HEMPSTEAD VILLAGE IN NASSAU COUNTY
BALANCE OF JEFFERSON COUNTY	JEFFERSON COUNTY LESS WATERTOWN CITY
KINGS COUNTY	KINGS COUNTY
LEWIS COUNTY	LEWIS COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
MOUNT VERNON CITY	MOUNT VERNON CITY IN WESTCHESTER COUNTY
NEW YORK COUNTY	NEW YORK COUNTY
NEWBURGH CITY	NEWBURGH CITY IN ORANGE COUNTY
NIAGARA FALLS CITY	NIAGARA FALLS CITY IN NIAGARA COUNTY
ORLEANS COUNTY	ORLEANS COUNTY
OSWEGO COUNTY	OSWEGO COUNTY
POUGHKEEPSIE CITY	POUGHKEEPSIE CITY IN DUTCHESS COUNTY
QUEENS COUNTY	QUEENS COUNTY
RICHMOND COUNTY	RICHMOND COUNTY
ROCHESTER CITY	ROCHESTER CITY IN MONROE COUNTY
SCHENECTADY CITY	SCHENECTADY CITY IN SCHENECTADY COUNTY
ST. LAWRENCE COUNTY	ST. LAWRENCE COUNTY
SYRACUSE CITY	SYRACUSE CITY IN ONONDAGA COUNTY
TROY CITY	TROY CITY IN RENSSELAER COUNTY
UTICA CITY	UTICA CITY IN ONEIDA COUNTY
BALANCE OF WARREN COUNTY	WARREN COUNTY LESS QUEENSBURY TOWN
WATERTOWN CITY	WATERTOWN CITY IN JEFFERSON COUNTY
WYOMING COUNTY	WYOMING COUNTY
NORTH CAROLINA	
ANSON COUNTY	ANSON COUNTY
BEAUFORT COUNTY	BEAUFORT COUNTY
BLADEN COUNTY	BLADEN COUNTY
BRUNSWICK COUNTY	BRUNSWICK COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
GRAHAM COUNTY	GRAHAM COUNTY
HALIFAX COUNTY	HALIFAX COUNTY
HYDE COUNTY	HYDE COUNTY
KINSTON CITY	KINSTON CITY IN LENOIR COUNTY
MITCHELL COUNTY	MITCHELL COUNTY
NORTHAMPTON COUNTY	NORTHAMPTON COUNTY
RICHMOND COUNTY	RICHMOND COUNTY
ROBESON COUNTY	ROBESON COUNTY
ROCKY MOUNT CITY	ROCKY MOUNT CITY IN EDGECOMBE COUNTY NASH COUNTY
SCOTLAND COUNTY	SCOTLAND COUNTY
SWAIN COUNTY	SWAIN COUNTY
TYRRELL COUNTY	TYRRELL COUNTY
VANCE COUNTY	VANCE COUNTY
WARREN COUNTY	WARREN COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WILMINGTON CITY	WILMINGTON CITY IN NEW HANOVER COUNTY
WILSON CITY	WILSON CITY IN WILSON COUNTY
NORTH DAKOTA	
BENSON COUNTY	BENSON COUNTY
MERCER COUNTY	MERCER COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
MOUNTRAIL COUNTY	MOUNTRAIL COUNTY
PEMBINA COUNTY	PEMBINA COUNTY
ROLETTE COUNTY	ROLETTE COUNTY
OHIO	
ADAMS COUNTY	ADAMS COUNTY
ASHTABULA COUNTY	ASHTABULA COUNTY
BELMONT COUNTY	BELMONT COUNTY
CANTON CITY	CANTON CITY IN STARK COUNTY
CLEVELAND CITY	CLEVELAND CITY IN CUYAHOGA COUNTY
DAYTON CITY	DAYTON CITY IN MONTGOMERY COUNTY
EAST CLEVELAND CITY	EAST CLEVELAND CITY IN CUYAHOGA COUNTY
GALLIA COUNTY	GALLIA COUNTY
GUERNSEY COUNTY	GUERNSEY COUNTY
HARRISON COUNTY	HARRISON COUNTY
HOCKING COUNTY	HOCKING COUNTY
HURON COUNTY	HURON COUNTY
JACKSON COUNTY	JACKSON COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
LIMA CITY	LIMA CITY IN ALLEN COUNTY
LORAIN CITY	LORAIN CITY IN LORAIN COUNTY
MANSFIELD CITY	MANSFIELD CITY IN RICHLAND COUNTY
MARION CITY	MARION CITY IN MARION COUNTY
MEIGS COUNTY	MEIGS COUNTY
MERCER COUNTY	MERCER COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
NOBLE COUNTY	NOBLE COUNTY
OTTAWA COUNTY	OTTAWA COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
SANDUSKY CITY	SANDUSKY CITY IN ERIE COUNTY
SCIOTO COUNTY	SCIOTO COUNTY
VINTON COUNTY	VINTON COUNTY
WARREN CITY	WARREN CITY IN TRUMBULL COUNTY
YOUNGSTOWN CITY	YOUNGSTOWN CITY IN MAHONING COUNTY
ZANESVILLE CITY	ZANESVILLE CITY IN MUSKINGUM COUNTY
OKLAHOMA	
CHOCTAW COUNTY	CHOCTAW COUNTY
COAL COUNTY	COAL COUNTY
HASKELL COUNTY	HASKELL COUNTY
HUGHES COUNTY	HUGHES COUNTY
BALANCE OF KAY COUNTY	KAY COUNTY LESS PONCA CITY
LATIMER COUNTY	LATIMER COUNTY
LE FLORE COUNTY	LE FLORE COUNTY
MC CURTAIN COUNTY	MC CURTAIN COUNTY
MC INTOSH COUNTY	MC INTOSH COUNTY
MURRAY COUNTY	MURRAY COUNTY
MUSKOGEE CITY	MUSKOGEE CITY IN MUSKOGEE COUNTY
BALANCE OF MUSKOGEE COUNTY	MUSKOGEE COUNTY LESS MUSKOGEE CITY
OKFUSKEE COUNTY	OKFUSKEE COUNTY
OKMULGEE COUNTY	OKMULGEE COUNTY
PAWNEE COUNTY	PAWNEE COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
PITTSBURG COUNTY	PITTSBURG COUNTY
PONCA CITY	PONCA CITY IN
	KAY COUNTY
PUSHMATAHA COUNTY	PUSHMATAHA COUNTY
SEMINOLE COUNTY	SEMINOLE COUNTY
SEQUOYAH COUNTY	SEQUOYAH COUNTY
STEPHENS COUNTY	STEPHENS COUNTY
OREGON	
BAKER COUNTY	BAKER COUNTY
COOS COUNTY	COOS COUNTY
CROOK COUNTY	CROOK COUNTY
CURRY COUNTY	CURRY COUNTY
DOUGLAS COUNTY	DOUGLAS COUNTY
GRANT COUNTY	GRANT COUNTY
HARNEY COUNTY	HARNEY COUNTY
HOOD RIVER COUNTY	HOOD RIVER COUNTY
JOSEPHINE COUNTY	JOSEPHINE COUNTY
KLAMATH COUNTY	KLAMATH COUNTY
LAKE COUNTY	LAKE COUNTY
MORROW COUNTY	MORROW COUNTY
UMATILLA COUNTY	UMATILLA COUNTY
WALLOWA COUNTY	WALLOWA COUNTY
WASCO COUNTY	WASCO COUNTY
WHEELER COUNTY	WHEELER COUNTY
PENNSYLVANIA	
ALTOONA CITY	ALTOONA CITY IN
	BLAIR COUNTY
ARMSTRONG COUNTY	ARMSTRONG COUNTY
BEDFORD COUNTY	BEDFORD COUNTY
BALANCE OF CAMBRIA COUNTY	CAMBRIA COUNTY LESS
	JOHNSTOWN CITY
CARBON COUNTY	CARBON COUNTY
CHESTER CITY	CHESTER CITY IN
	DELAWARE COUNTY
CLARION COUNTY	CLARION COUNTY
CLEARFIELD COUNTY	CLEARFIELD COUNTY
CLINTON COUNTY	CLINTON COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
ERIE CITY	ERIE CITY IN
	ERIE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FOREST COUNTY	FOREST COUNTY
GREENE COUNTY	GREENE COUNTY
HAZLETON CITY	HAZLETON CITY IN
	LUZERNE COUNTY
HUNTINGDON COUNTY	HUNTINGDON COUNTY
INDIANA COUNTY	INDIANA COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSTOWN CITY	JOHNSTOWN CITY IN
	CAMBRIA COUNTY
JUNIATA COUNTY	JUNIATA COUNTY
BALANCE OF LACKAWANNA COUNTY	LACKAWANNA COUNTY LESS
	SCRANTON CITY
BALANCE OF LAWRENCE COUNTY	LAWRENCE COUNTY LESS
	NEW CASTLE CITY
BALANCE OF LUZERNE COUNTY	LUZERNE COUNTY LESS
	HAZLETON CITY
	WILKES-BARRE CITY
MCKEESPORT CITY	MCKEESPORT CITY IN
	ALLEGHENY COUNTY
MONROE COUNTY	MONROE COUNTY
NEW CASTLE CITY	NEW CASTLE CITY IN
	LAWRENCE COUNTY
NORRISTOWN BOROUGH	NORRISTOWN BOROUGH IN
	MONTGOMERY COUNTY
NORTHUMBERLAND COUNTY	NORTHUMBERLAND COUNTY
PHILADELPHIA CITY	PHILADELPHIA CITY IN

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
	PHILADELPHIA COUNTY
POTTER COUNTY	POTTER COUNTY
READING CITY	READING CITY IN BERKS COUNTY
SCHUYLKILL COUNTY	SCHUYLKILL COUNTY
SCRANTON CITY	SCRANTON CITY IN LACKAWANNA COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
SUSQUEHANNA COUNTY	SUSQUEHANNA COUNTY
VENANGO COUNTY	VENANGO COUNTY
WAYNE COUNTY	WAYNE COUNTY
BALANCE OF WESTMORELAND COUNTY	WESTMORELAND COUNTY LESS HEMPFIELD TOWNSHIP NORTH HUNTINGDON TOWNSHIP
WILKES-BARRE CITY	WILKES-BARRE CITY IN LUZERNE COUNTY
WILLIAMSPORT CITY	WILLIAMSPORT CITY IN LYCOMING COUNTY
WYOMING COUNTY	WYOMING COUNTY
PUERTO RICO	
ADJUNTAS MUNICIPIO	ADJUNTAS MUNICIPIO
AGUADA MUNICIPIO	AGUADA MUNICIPIO
AGUADILLA MUNICIPIO	AGUADILLA MUNICIPIO
AGUAS BUENAS MUNICIPIO	AGUAS BUENAS MUNICIPIO
AIBONITO MUNICIPIO	AIBONITO MUNICIPIO
ANASCO MUNICIPIO	ANASCO MUNICIPIO
ARECIBO MUNICIPIO	ARECIBO MUNICIPIO
ARROYO MUNICIPIO	ARROYO MUNICIPIO
BARCELONETA MUNICIPIO	BARCELONETA MUNICIPIO
BARRANQUITAS MUNICIPIO	BARRANQUITAS MUNICIPIO
BAYAMON MUNICIPIO	BAYAMON MUNICIPIO
CABO ROJO MUNICIPIO	CABO ROJO MUNICIPIO
CAGUAS MUNICIPIO	CAGUAS MUNICIPIO
CAMUY MUNICIPIO	CAMUY MUNICIPIO
CANOVANAS MUNICIPIO	CANOVANAS MUNICIPIO
CAROLINA MUNICIPIO	CAROLINA MUNICIPIO
CATANO MUNICIPIO	CATANO MUNICIPIO
CAYEY MUNICIPIO	CAYEY MUNICIPIO
CEIBA MUNICIPIO	CEIBA MUNICIPIO
CIALES MUNICIPIO	CIALES MUNICIPIO
CIDRA MUNICIPIO	CIDRA MUNICIPIO
COAMO MUNICIPIO	COAMO MUNICIPIO
COMERIO MUNICIPIO	COMERIO MUNICIPIO
COROZAL MUNICIPIO	COROZAL MUNICIPIO
DORADO MUNICIPIO	DORADO MUNICIPIO
FAJARDO MUNICIPIO	FAJARDO MUNICIPIO
FLORIDA MUNICIPIO	FLORIDA MUNICIPIO
GUANICA MUNICIPIO	GUANICA MUNICIPIO
GUAYAMA MUNICIPIO	GUAYAMA MUNICIPIO
GUAYANILLA MUNICIPIO	GUAYANILLA MUNICIPIO
GURABO MUNICIPIO	GURABO MUNICIPIO
HATILLO MUNICIPIO	HATILLO MUNICIPIO
HORMIGUEROS MUNICIPIO	HORMIGUEROS MUNICIPIO
HUMACAO MUNICIPIO	HUMACAO MUNICIPIO
ISABELA MUNICIPIO	ISABELA MUNICIPIO
JAYUYA MUNICIPIO	JAYUYA MUNICIPIO
JUANA DIAZ MUNICIPIO	JUANA DIAZ MUNICIPIO
JUNCOS MUNICIPIO	JUNCOS MUNICIPIO
LAJAS MUNICIPIO	LAJAS MUNICIPIO
LARES MUNICIPIO	LARES MUNICIPIO
LAS MARIAS MUNICIPIO	LAS MARIAS MUNICIPIO
LAS PIEDRAS MUNICIPIO	LAS PIEDRAS MUNICIPIO
LOIZA MUNICIPIO	LOIZA MUNICIPIO
LUQUILLO MUNICIPIO	LUQUILLO MUNICIPIO
MANATI MUNICIPIO	MANATI MUNICIPIO
MARICAO MUNICIPIO	MARICAO MUNICIPIO
MAUNABO MUNICIPIO	MAUNABO MUNICIPIO
MAYAGUEZ MUNICIPIO	MAYAGUEZ MUNICIPIO
MOCA MUNICIPIO	MOCA MUNICIPIO

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
MOROVIS MUNICIPIO	MOROVIS MUNICIPIO
NAGUABO MUNICIPIO	NAGUABO MUNICIPIO
NARANJITO MUNICIPIO	NARANJITO MUNICIPIO
OROCOVIS MUNICIPIO	OROCOVIS MUNICIPIO
PATILLAS MUNICIPIO	PATILLAS MUNICIPIO
PENUELAS MUNICIPIO	PENUELAS MUNICIPIO
PONCE MUNICIPIO	PONCE MUNICIPIO
QUEBRADILLAS MUNICIPIO	QUEBRADILLAS MUNICIPIO
RINCON MUNICIPIO	RINCON MUNICIPIO
RIO GRANDE MUNICIPIO	RIO GRANDE MUNICIPIO
SABANA GRANDE MUNICIPIO	SABANA GRANDE MUNICIPIO
SALINAS MUNICIPIO	SALINAS MUNICIPIO
SAN GERMAN MUNICIPIO	SAN GERMAN MUNICIPIO
SAN JUAN MUNICIPIO	SAN JUAN MUNICIPIO
SAN LORENZO MUNICIPIO	SAN LORENZO MUNICIPIO
SAN SEBASTIAN MUNICIPIO	SAN SEBASTIAN MUNICIPIO
SANTA ISABEL MUNICIPIO	SANTA ISABEL MUNICIPIO
TOA ALTA MUNICIPIO	TOA ALTA MUNICIPIO
TOA BAJA MUNICIPIO	TOA BAJA MUNICIPIO
TRUJILLO ALTO MUNICIPIO	TRUJILLO ALTO MUNICIPIO
UTUADO MUNICIPIO	UTUADO MUNICIPIO
VEGA ALTA MUNICIPIO	VEGA ALTA MUNICIPIO
VEGA BAJA MUNICIPIO	VEGA BAJA MUNICIPIO
VIEQUES MUNICIPIO	VIEQUES MUNICIPIO
VILLALBA MUNICIPIO	VILLALBA MUNICIPIO
YABUCOA MUNICIPIO	YABUCOA MUNICIPIO
YAUCO MUNICIPIO	YAUCO MUNICIPIO
RHODE ISLAND	
CENTRAL FALLS CITY	CENTRAL FALLS CITY
CHARLESTOWN TOWN	CHARLESTOWN TOWN
CRANSTON CITY	CRANSTON CITY
EAST PROVIDENCE CITY	EAST PROVIDENCE CITY
JOHNSTON TOWN	JOHNSTON TOWN
MIDDLETOWN TOWN	MIDDLETOWN TOWN
NEW SHOREHAM TOWN	NEW SHOREHAM TOWN
NEWPORT CITY	NEWPORT CITY
PAWTUCKET CITY	PAWTUCKET CITY
PROVIDENCE CITY	PROVIDENCE CITY
TIVERTON TOWN	TIVERTON TOWN
WEST WARWICK TOWN	WEST WARWICK TOWN
WOONSOCKET CITY	WOONSOCKET CITY
SOUTH CAROLINA	
ABBEVILLE COUNTY	ABBEVILLE COUNTY
ALLENDALE COUNTY	ALLENDALE COUNTY
BAMBERG COUNTY	BAMBERG COUNTY
BARNWELL COUNTY	BARNWELL COUNTY
CHESTER COUNTY	CHESTER COUNTY
CHESTERFIELD COUNTY	CHESTERFIELD COUNTY
CLARENDON COUNTY	CLARENDON COUNTY
COLLETON COUNTY	COLLETON COUNTY
DARLINGTON COUNTY	DARLINGTON COUNTY
DILLON COUNTY	DILLON COUNTY
FAIRFIELD COUNTY	FAIRFIELD COUNTY
FLORENCE CITY	FLORENCE CITY IN FLORENCE COUNTY
GEORGETOWN COUNTY	GEORGETOWN COUNTY
HAMPTON COUNTY	HAMPTON COUNTY
KERSHAW COUNTY	KERSHAW COUNTY
LEE COUNTY	LEE COUNTY
MARION COUNTY	MARION COUNTY
MARLBORO COUNTY	MARLBORO COUNTY
MC CORMICK COUNTY	MC CORMICK COUNTY
NORTH CHARLESTON CITY	NORTH CHARLESTON CITY IN CHARLESTON COUNTY
ORANGEBURG COUNTY	ORANGEBURG COUNTY
SUMTER CITY	SUMTER CITY IN SUMTER COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
UNION COUNTY	UNION COUNTY
WILLIAMSBURG COUNTY	WILLIAMSBURG COUNTY
SOUTH DAKOTA	
BUFFALO COUNTY	BUFFALO COUNTY
CORSON COUNTY	CORSON COUNTY
DEWEY COUNTY	DEWEY COUNTY
SHANNON COUNTY	SHANNON COUNTY
TODD COUNTY	TODD COUNTY
ZIEBACH COUNTY	ZIEBACH COUNTY
TENNESSEE	
BENTON COUNTY	BENTON COUNTY
CAMPBELL COUNTY	CAMPBELL COUNTY
COCKE COUNTY	COCKE COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
FENTRESS COUNTY	FENTRESS COUNTY
GREENE COUNTY	GREENE COUNTY
GRUNDY COUNTY	GRUNDY COUNTY
HARDEMAN COUNTY	HARDEMAN COUNTY
HARDIN COUNTY	HARDIN COUNTY
HAYWOOD COUNTY	HAYWOOD COUNTY
HOUSTON COUNTY	HOUSTON COUNTY
HUMPHREYS COUNTY	HUMPHREYS COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
LAUDERDALE COUNTY	LAUDERDALE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEWIS COUNTY	LEWIS COUNTY
MACON COUNTY	MACON COUNTY
MC MINN COUNTY	MC MINN COUNTY
MC NAIRY COUNTY	MC NAIRY COUNTY
MEIGS COUNTY	MEIGS COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
OVERTON COUNTY	OVERTON COUNTY
PICKETT COUNTY	PICKETT COUNTY
POLK COUNTY	POLK COUNTY
RHEA COUNTY	RHEA COUNTY
SCOTT COUNTY	SCOTT COUNTY
SEVIER COUNTY	SEVIER COUNTY
STEWART COUNTY	STEWART COUNTY
TROUSDALE COUNTY	TROUSDALE COUNTY
UNICOI COUNTY	UNICOI COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
WAYNE COUNTY	WAYNE COUNTY
TEXAS	
BAYTOWN CITY	BAYTOWN CITY IN HARRIS COUNTY
BEAUMONT CITY	BEAUMONT CITY IN JEFFERSON COUNTY
BEE COUNTY	BEE COUNTY
BALANCE OF BOWIE COUNTY	BOWIE COUNTY LESS TEXARKANA CITY TEX
BALANCE OF BRAZORIA COUNTY	BRAZORIA COUNTY LESS LAKE JACKSON CITY
BROOKS COUNTY	BROOKS COUNTY
BROWNSVILLE CITY	BROWNSVILLE CITY IN CAMERON COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
BALANCE OF CAMERON COUNTY	CAMERON COUNTY LESS BROWNSVILLE CITY HARLINGEN CITY
CAMP COUNTY	CAMP COUNTY
CASS COUNTY	CASS COUNTY
COCHRAN COUNTY	COCHRAN COUNTY
CORPUS CHRISTI CITY	CORPUS CHRISTI CITY IN NUECES COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
CROSBY COUNTY	CROSBY COUNTY
DAWSON COUNTY	DAWSON COUNTY
DEAF SMITH COUNTY	DEAF SMITH COUNTY
DEL RIO CITY	DEL RIO CITY IN
	VAL VERDE COUNTY
DICKENS COUNTY	DICKENS COUNTY
DIMMIT COUNTY	DIMMIT COUNTY
DUVAL COUNTY	DUVAL COUNTY
BALANCE OF ECTOR COUNTY	ECTOR COUNTY LESS
	ODESSA CITY
EDINBURG CITY	EDINBURG CITY IN
	HIDALGO COUNTY
EL PASO CITY	EL PASO CITY IN
	EL PASO COUNTY
BALANCE OF EL PASO COUNTY	EL PASO COUNTY LESS
	EL PASO CITY
	SOCORRO CITY
FRIO COUNTY	FRIO COUNTY
GALVESTON CITY	GALVESTON CITY IN
	GALVESTON COUNTY
BALANCE OF GALVESTON COUNTY	GALVESTON COUNTY LESS
	FRIENDSWOOD CITY
	GALVESTON CITY
	LEAGUE CITY
	TEXAS CITY
BALANCE OF GREGG COUNTY	GREGG COUNTY LESS
	LONGVIEW CITY
HALL COUNTY	HALL COUNTY
HARDIN COUNTY	HARDIN COUNTY
HARLINGEN CITY	HARLINGEN CITY IN
	CAMERON COUNTY
BALANCE OF HARRISON COUNTY	HARRISON COUNTY LESS
	LONGVIEW CITY
BALANCE OF HIDALGO COUNTY	HIDALGO COUNTY LESS
	EDINBURG CITY
	MC ALLEN CITY
	MISSION CITY
	PHARR CITY
HOUSTON CITY	HOUSTON CITY IN
	FORT BEND COUNTY
	HARRIS COUNTY
HUTCHINSON COUNTY	HUTCHINSON COUNTY
JASPER COUNTY	JASPER COUNTY
JIM HOGG COUNTY	JIM HOGG COUNTY
JIM WELLS COUNTY	JIM WELLS COUNTY
KILLEEN CITY	KILLEEN CITY IN
	BELL COUNTY
KINGSVILLE CITY	KINGSVILLE CITY IN
	KLEBERG COUNTY
KINNEY COUNTY	KINNEY COUNTY
BALANCE OF KLEBERG COUNTY	KLEBERG COUNTY LESS
	KINGSVILLE CITY
LA SALLE COUNTY	LA SALLE COUNTY
LAMAR COUNTY	LAMAR COUNTY
LAREDO CITY	LAREDO CITY IN
	WEBB COUNTY
LEON COUNTY	LEON COUNTY
LIBERTY COUNTY	LIBERTY COUNTY
LONGVIEW CITY	LONGVIEW CITY IN
	GREGG COUNTY
	HARRISON COUNTY
LOVING COUNTY	LOVING COUNTY
MARION COUNTY	MARION COUNTY
MATAGORDA COUNTY	MATAGORDA COUNTY
MAVERICK COUNTY	MAVERICK COUNTY
MC ALLEN CITY	MC ALLEN CITY IN
	HIDALGO COUNTY
MISSION CITY	MISSION CITY IN
	HIDALGO COUNTY
MORRIS COUNTY	MORRIS COUNTY
NEWTON COUNTY	NEWTON COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
NOLAN COUNTY	NOLAN COUNTY
BALANCE OF NUECES COUNTY	NUECES COUNTY LESS CORPUS CHRISTI CITY
ODESSA CITY	ODESSA CITY IN ECTOR COUNTY
ORANGE COUNTY	ORANGE COUNTY
PALO PINTO COUNTY	PALO PINTO COUNTY
PANOLA COUNTY	PANOLA COUNTY
PHARR CITY	PHARR CITY IN HIDALGO COUNTY
PORT ARTHUR CITY	PORT ARTHUR CITY IN JEFFERSON COUNTY
PRESIDIO COUNTY	PRESIDIO COUNTY
RED RIVER COUNTY	RED RIVER COUNTY
REEVES COUNTY	REEVES COUNTY
RUSK COUNTY	RUSK COUNTY
SABINE COUNTY	SABINE COUNTY
SAN PATRICIO COUNTY	SAN PATRICIO COUNTY
SOCORRO CITY	SOCORRO CITY IN EL PASO COUNTY
SOMERVELL COUNTY	SOMERVELL COUNTY
STARR COUNTY	STARR COUNTY
TERRY COUNTY	TERRY COUNTY
TEXARKANA CITY TEX	TEXARKANA CITY TEX IN BOWIE COUNTY
TEXAS CITY	TEXAS CITY IN GALVESTON COUNTY
TITUS COUNTY	TITUS COUNTY
TYLER COUNTY	TYLER COUNTY
UVALDE COUNTY	UVALDE COUNTY
BALANCE OF VAL VERDE COUNTY	VAL VERDE COUNTY LESS DEL RIO CITY
WARD COUNTY	WARD COUNTY
BALANCE OF WEBB COUNTY	WEBB COUNTY LESS LAREDO CITY
WILLACY COUNTY	WILLACY COUNTY
WINKLER COUNTY	WINKLER COUNTY
YOUNG COUNTY	YOUNG COUNTY
ZAPATA COUNTY	ZAPATA COUNTY
ZAVALA COUNTY	ZAVALA COUNTY
UTAH	
CARBON COUNTY	CARBON COUNTY
DUCHESNE COUNTY	DUCHESNE COUNTY
EMERY COUNTY	EMERY COUNTY
GARFIELD COUNTY	GARFIELD COUNTY
KANE COUNTY	KANE COUNTY
PIUTE COUNTY	PIUTE COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
UINTAH COUNTY	UINTAH COUNTY
VERMONT	
ORLEANS COUNTY	ORLEANS COUNTY
VIRGINIA	
ACCOMACK COUNTY	ACCOMACK COUNTY
ALLEGHANY COUNTY	ALLEGHANY COUNTY
BATH COUNTY	BATH COUNTY
BLAND COUNTY	BLAND COUNTY
BRUNSWICK COUNTY	BRUNSWICK COUNTY
BUCHANAN COUNTY	BUCHANAN COUNTY
CAROLINE COUNTY	CAROLINE COUNTY
CLIFTON FORGE CITY	CLIFTON FORGE CITY
COVINGTON CITY	COVINGTON CITY
DANVILLE CITY	DANVILLE CITY
DICKENSON COUNTY	DICKENSON COUNTY
EMPORIA CITY	EMPORIA CITY
GILES COUNTY	GILES COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
HALIFAX COUNTY	HALIFAX COUNTY
HENRY COUNTY	HENRY COUNTY
LANCASTER COUNTY	LANCASTER COUNTY
LEE COUNTY	LEE COUNTY
LOUISA COUNTY	LOUISA COUNTY
LUNENBURG COUNTY	LUNENBURG COUNTY
MARTINSVILLE CITY	MARTINSVILLE CITY
NORTHAMPTON COUNTY	NORTHAMPTON COUNTY
NORTHUMBERLAND COUNTY	NORTHUMBERLAND COUNTY
NORTON CITY	NORTON CITY
PAGE COUNTY	PAGE COUNTY
PETERSBURG CITY	PETERSBURG CITY
PITTSYLVANIA COUNTY	PITTSYLVANIA COUNTY
PORTSMOUTH CITY	PORTSMOUTH CITY
RUSSELL COUNTY	RUSSELL COUNTY
SCOTT COUNTY	SCOTT COUNTY
SMYTH COUNTY	SMYTH COUNTY
SURRY COUNTY	SURRY COUNTY
TAZEWELL COUNTY	TAZEWELL COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WESTMORELAND COUNTY	WESTMORELAND COUNTY
WILLIAMSBURG CITY	WILLIAMSBURG CITY
WISE COUNTY	WISE COUNTY
WASHINGTON	
ADAMS COUNTY	ADAMS COUNTY
BELLINGHAM CITY	BELLINGHAM CITY IN WHATCOM COUNTY
BREMERTON CITY	BREMERTON CITY IN KITSAP COUNTY
CHELAN COUNTY	CHELAN COUNTY
CLALLAM COUNTY	CLALLAM COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
BALANCE OF COWLITZ COUNTY	COWLITZ COUNTY LESS LONGVIEW CITY
DOUGLAS COUNTY	DOUGLAS COUNTY
EVERETT CITY	EVERETT CITY IN SNOHOMISH COUNTY
FERRY COUNTY	FERRY COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GRANT COUNTY	GRANT COUNTY
GRAYS HARBOR COUNTY	GRAYS HARBOR COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
KENNEWICK CITY	KENNEWICK CITY IN BENTON COUNTY
KITTITAS COUNTY	KITTITAS COUNTY
KLICKITAT COUNTY	KLICKITAT COUNTY
LEWIS COUNTY	LEWIS COUNTY
LONGVIEW CITY	LONGVIEW CITY IN COWLITZ COUNTY
MASON COUNTY	MASON COUNTY
OKANOGAN COUNTY	OKANOGAN COUNTY
PACIFIC COUNTY	PACIFIC COUNTY
PEND OREILLE COUNTY	PEND OREILLE COUNTY
SKAGIT COUNTY	SKAGIT COUNTY
SKAMANIA COUNTY	SKAMANIA COUNTY
STEVENS COUNTY	STEVENS COUNTY
TACOMA CITY	TACOMA CITY IN PIERCE COUNTY
WAHKIAKUM COUNTY	WAHKIAKUM COUNTY
WALLA WALLA CITY	WALLA WALLA CITY IN WALLA WALLA COUNTY
BALANCE OF WHATCOM COUNTY	WHATCOM COUNTY LESS BELLINGHAM CITY
YAKIMA CITY	YAKIMA CITY IN YAKIMA COUNTY
BALANCE OF YAKIMA COUNTY	YAKIMA COUNTY LESS YAKIMA CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
WEST VIRGINIA	
BARBOUR COUNTY	BARBOUR COUNTY
BOONE COUNTY	BOONE COUNTY
BRAXTON COUNTY	BRAXTON COUNTY
BROOKE COUNTY	BROOKE COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CLAY COUNTY	CLAY COUNTY
DODDRIDGE COUNTY	DODDRIDGE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
GILMER COUNTY	GILMER COUNTY
GRANT COUNTY	GRANT COUNTY
GREENBRIER COUNTY	GREENBRIER COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARRISON COUNTY	HARRISON COUNTY
HUNTINGTON CITY	HUNTINGTON CITY IN
	CABELL COUNTY
	WAYNE COUNTY
JACKSON COUNTY	JACKSON COUNTY
LEWIS COUNTY	LEWIS COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LOGAN COUNTY	LOGAN COUNTY
MARION COUNTY	MARION COUNTY
BALANCE OF MARSHALL COUNTY	MARSHALL COUNTY LESS
	WHEELING CITY
MASON COUNTY	MASON COUNTY
MC DOWELL COUNTY	MC DOWELL COUNTY
MINGO COUNTY	MINGO COUNTY
MONROE COUNTY	MONROE COUNTY
NICHOLAS COUNTY	NICHOLAS COUNTY
PARKERSBURG CITY	PARKERSBURG CITY IN
	WOOD COUNTY
PLEASANTS COUNTY	PLEASANTS COUNTY
POCAHONTAS COUNTY	POCAHONTAS COUNTY
PRESTON COUNTY	PRESTON COUNTY
RALEIGH COUNTY	RALEIGH COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
RITCHIE COUNTY	RITCHIE COUNTY
ROANE COUNTY	ROANE COUNTY
SUMMERS COUNTY	SUMMERS COUNTY
TAYLOR COUNTY	TAYLOR COUNTY
TUCKER COUNTY	TUCKER COUNTY
TYLER COUNTY	TYLER COUNTY
UPSHUR COUNTY	UPSHUR COUNTY
BALANCE OF WAYNE COUNTY	WAYNE COUNTY LESS
	HUNTINGTON CITY
WEBSTER COUNTY	WEBSTER COUNTY
WETZEL COUNTY	WETZEL COUNTY
WIRT COUNTY	WIRT COUNTY
WYOMING COUNTY	WYOMING COUNTY
WISCONSIN	
ASHLAND COUNTY	ASHLAND COUNTY
BAYFIELD COUNTY	BAYFIELD COUNTY
CLARK COUNTY	CLARK COUNTY
DOOR COUNTY	DOOR COUNTY
FOREST COUNTY	FOREST COUNTY
IRON COUNTY	IRON COUNTY
MARQUETTE COUNTY	MARQUETTE COUNTY
MENOMINEE COUNTY	MENOMINEE COUNTY
RACINE CITY	RACINE CITY IN
	RACINE COUNTY
RUSK COUNTY	RUSK COUNTY
WASHBURN COUNTY	WASHBUR
WYOMING	
FREMONT COUNTY	FREMONT COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
BALANCE OF NATRONA COUNTY	NATRONA COUNTY LESS
	CASPER CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1996 through September 30, 1997]

Eligible labor surplus areas	Civil jurisdictions included
UINTA COUNTY	UINTA COUNTY

[FR Doc. 96–26492 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M, 4510–30–P

[NAFTA–00959]

Newell Home Hardware Company; Dorfile Storage and Shelving Systems; City of Commerce, CA; Amended Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued an Amended Certification for NAFTA Transitional Adjustment Assistance on May 24, 1996, applicable to workers of Newell Home Hardware Company, Dorfile Storage and Shelving Systems, located in Los Angeles, California. The notice was published in the Federal Register on June 6, 1996 (61 FR 28901).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show the Department's worker certification incorrectly identified the affected workers as being located in Los Angeles, California. The worker separations took place at the subject firm's facility located in the City of Commerce, California. The workers were engaged in the production of metal and steel brackets, clips and rods.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports from Canada and Mexico. Accordingly, the Department is amending the certification to include all workers engaged in the production of metal and steel brackets, clips and rods at Newell Home Hardware Company, Dorfile Storage and Shelving Systems, located in the City of Commerce, California and to exclude workers at the subject firm's location in Los Angeles, California.

The amended notice applicable to NAFTA—00959 is hereby issued as follows:

''All workers engaged in employment related to the production of metal and steel brackets, clips and rods at Newell Home Hardware Company, Dorfile Storage and Shelving Systems, located in the City of Commerce, California who became totally or partially separated from employment on or after April 1, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed in Washington, D.C., this 3rd day of October 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–26486 Filed 10–15–96; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–122]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NSA hereby gives notice that ThermTech Services, Inc. (hereinafter ThermTech), of 2370 NE Ocean Boulevard Suite 304A, Stuart, FL 34996, has requested a partially exclusive license to practice the invention disclosed in NASA Case No. LAR–15524–1, entitled ''A Method and Apparatus for Thickness of Layers Using A Scanning Linear Heat Source and Infrared Detector,'' for which a U.S. Patent Application was filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATE: Responses to this notice must be received by December 16, 1996.

FOR FURTHER INFORMATION CONTACT:

Ms. Kimberly A. Chasteen, Patent Attorney, Langley Research Center, (757) 864–3227.

Dated: October 3, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–26497 Filed 10–15–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice, which are used in the National Historical Publications and Records Commission grant program. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before November 15, 1996 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Maya Bernstein, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Mary Ann Hadyka or Nancy Allard at telephone number 301–713–6730, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for these information collections on August 2, 1996 (61 FR 40466). No comments were received. NARA has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information

collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Application for attendance at the Institute for the Editing of Historical Documents.

OMB number: 3095–0012, expiration date 10/31/96.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals, often already working on documentary editing projects, who wish to apply to attend the annual one-week Institute for the Editing of Historical Documents, an intensive seminar in all aspects of modern documentary editing techniques taught by visiting editors and specialists.

Estimated number of respondents: 25.

Estimated time per response: 2 hours.

Frequency of response: On occasion, no more than annually (when respondent wishes to apply for attendance at the Institute).

Estimated total annual burden hours: 50.

Abstract: The application is used by the NHPRC staff to establish the applicants' qualifications and to permit selection of those individuals best qualified to attend the Institute jointly sponsored by the NHPRC, the State Historical Society of Wisconsin, and the University of Wisconsin. Selected applicants' forms are forwarded to the resident advisors of the Institute, who use them to determine what areas of instruction would be most useful to the applicants.

2. *Title:* National Historical Publications and Records Commission Grant Program.

OMB number: 3095–0013, expiration date 10/31/96.

Agency form number: None.

Type of review: Regular.

Affected public: Nonprofit organizations and institutions, state and local government agencies, Federally acknowledged or state-recognized Native American tribes or groups, and individuals who apply for NHPRC grants for support of historical documentary editions, archival preservation and planning projects, and other records projects.

Estimated number of respondents: 174 per year submit applications; approximately 100 grantees among the applicant respondents also submit semiannual narrative performance reports.

Estimated time per response: 54 hours per application; 2 hours per narrative report.

Frequency of response: On occasion for the application; semiannually for the narrative report. Currently, the NHPRC considers grant applications 3 times per year; respondents usually submit no more than one application per year.

Estimated total annual burden hours: 9,796 hours.

Abstract: The application is used by the NHPRC staff, reviewers, and the Commission to determine if the applicant and proposed project are eligible for an NHPRC grant, and whether the proposed project is methodologically sound and suitable for support. The narrative report is used by the NHPRC staff to monitor the performance of grants.

3. *Title:* Applications for Archival Administration and Historical Documentary Editing Fellowships

OMB number: 3095–0011 and 3095–0014, expiration date 10/31/96. The applications are being combined in this request for OMB approval under the control number 3095–0014.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals who wish to apply for an NHPRC fellowship in archival administration or historical documentary editing. Applicants for the archival administration fellowship must have at least two years' professional archival work experience; applicants for the editing fellowship must hold a Ph.D. or have completed all requirements for the degree except the dissertation.

Estimated number of respondents: 15.

Estimated time per response: 8 hours.

Frequency of response: Generally one-time.

Estimated total annual burden hours: 120 hours.

Abstract: The application is used by the NHPRC staff to establish the applicants' qualifications and to permit selection by the host institution of those individuals best qualified for the fellowships. One fellowship in archival administration and one fellowship in historical editing are awarded each year.

4. *Title:* Application for host institutions of archival administration and historical editing fellowships.

OMB number: 3095–0015, expiration date 10/31/96. The current approval covers only applications for host institution of the archival administration fellowship. The application for host institution of the historical documentary editing fellowship is a new information collection.

Agency form number: None.

Type of review: Regular.

Affected public: Nonprofit institutions or organizations that have active archival or special collections programs, and historical documentary publication projects that have received an NHPRC grant.

Estimated number of respondents: 9.

Estimated time per response: 17 hours.

Frequency of response: Generally, one-time although an institution may apply in subsequent years.

Estimated total annual burden hours: 153 hours.

Abstract: The application is used by the NHPRC staff to select applicants to serve as host institutions for the two fellowships supported by the NHPRC each year.

Dated: October 9, 1996.

L. Reynolds Cahoon,

Assistant Archivist for Policy and IRM Services.

[FR Doc. 96–26457 Filed 10–15–96; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 55, ''Operators' Licenses''.

2. Current OMB approval number: 3150–0018.

3. How often the collection is required: As necessary in order for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses and perform a review of applications and reports for simulation facilities submitted to the NRC.

4. Who is required or asked to report: Holders of and applicants for facility (i.e., nuclear power, research, and test reactor) operating licenses and individual operators' licenses.

5. The number of annual respondents: 135.

6. The number of hours needed annually to complete the requirement or request: 3,556 (approximately 964 hours of reporting burden and approximately 2,592 hours of recordkeeping burden).

7. Abstract: 10 CFR Part 55 of the NRC's regulations, ''Operators' Licenses'' specifies information and data to be provided by applicants and facility licensees so that the NRC may make determinations concerning the licensing of operators for nuclear power plants necessary to promote the health and safety of the public. The reporting and recordkeeping requirements contained in 10 CFR Part 55 are mandatory for the licensees and applicants affected.

Submit, by December 16, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 8th day of October, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior, Official for Information Resources Management.

[FR Doc. 96–26434 Filed 10–15–96; 8:45 am]

BILLING CODE 7590–01–P

Northern States Power Company; Establishment of Atomic Safety and Licensing Board

[Docket No. 72–18–ISFSI; ASLBP No. 97–720–01–ISFSI]

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 F.R. 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Northern States Power Company

(Independent Spent Fuel Storage Installation)

This Board is being established pursuant to a notice published by the Commission on September 17, 1996, in the Federal Register (61 FR 48989). The proceeding involves an application by the Northern States Power Company for the issuance of a license for the storage of spent fuel under the provisions of 10 C.F.R. Part 72. The license, if granted, would authorize the applicant to store spent fuel in a dry storage cask system at an off-site independent spent fuel storage installation.

The Board is comprised of the following administrative judges:

Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 9th day of October 1996.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 96–26435 Filed 10–15–96; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

DATES: Weeks of October 14, 21, 28, and November 4, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 14

Tuesday, October 15

1:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

Wednesday, October 16

9:00 a.m.
Briefing on Containment Degradation (Public Meeting)
Contact: Goutam Bagchi, 301–415–2733)

11:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)

2:00 p.m.
Briefing PRA Implementation Plan (Public Meeting)
(Contact: Gary Holahan, 301–415–2884)

Thursday, October 17

10:30 a.m. and 1:30 p.m.
All Employees Meetings (Public Meetings) on ''The Green'' Plaza Area between buildings at White Flint

Friday, October 18

9:00 a.m.
Briefing on Integrated Safety Assessment Team Inspection (ISAT) at Maine Yankee (Public Meeting)
(Contact: Ed Jordan, 301–415–7472)

10:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of October 21—Tentative

There are no meetings scheduled for the Week of October 21.

Week of October 28—Tentative

There are no meetings scheduled for the Week of October 28.

Week of November 4—Tentative

There are no meetings scheduled for the Week of November 4.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill, (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on October 9, the Commission

determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of Yankee Atomic Electric Company (Yankee Nuclear Power Station), Docket No. 50–029–DCOM'' be held on October 9, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: October 11, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–26678 Filed 10–11–96; 2:46 pm]

BILLING CODE 7590–01–M

PEACE CORPS

Information Collection Requests Under OMB Review

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 USC, Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to approve the use of Fellows Program Alumni Questionnaire to be used by Peace Corps Fellows Program. A copy of the information collection may be obtained from Frances Bond, Peace Corps Fellows Program, 1990 K Street, NW, Washington DC 20526. Dr. Bond may be contacted at (202) 606–9496. Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps Fellows Program, including whether the information will have practical use; 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; ways to enhance the quality, utility and clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Comments on this form should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Fellows Program Alumni Questionnaire.

Need for and use of the Information: This form is completed voluntarily by individuals who have completed graduate study as part of the Peace Corps Fellows Program. The information provided by the respondents is necessary for evaluating the quality of individual programs, for determining whether graduates of education programs have remained in teaching, and for seeking future funding. Programmatic information will be disseminated to individual programs and portions of the data collected will be incorporated into grant proposals.

Respondents: Peace Corps Fellows Program Alumni only.

Respondents obligation to reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 750 hrs
b. Annual record keeping burden: 0 hrs
c. Estimated average burden per response: 45 min
d. Frequency of response: one time
e. Estimated number of likely respondents: 1,000
f. Estimated cost to respondents: $9.13

This notice is issued in Washington, DC on October 10, 1996.

Bessy Kong,

Acting Associate Director for Management.

[FR Doc. 96–26426 Filed 10–15–96; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 14, 1996.

A closed meeting will be held on Wednesday, October 16, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, October 16, 1996, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: October 11, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–26590 Filed 10–11–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37797; File No. SR–NASD–96–32]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Availability of Disciplinary Complaints and Disciplinary Decisions Upon Request

October 9, 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 October 2, 1996, NASD Regulation, Inc. (''NASDR'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDR.[1] The

[1] The NASD initially submitted the filing on August 6, 1996. On September 19, 1996, the NASD filed Amendment No. 1 with the Commission. See letter from Alden S. Adkins, Vice President and General Counsel, NASD, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC (September 19, 1996). On October 2, 1996, NASDR filed Amendment No. 2 with the Commission. See letter from Suzanne E. Rothwell, Associate General Counsel, NASD Regulation, Inc.,

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDR is proposing to amend the Interpretation on the Release of Disciplinary Information, IM–8310–2 of the Procedural Rules of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), to permit the Association to provide a copy of any disciplinary complaint or disciplinary decision upon request and to require that such copy be accompanied by a disclosure statement in certain circumstances. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

IM–8310–2. Release of Disciplinary Information

(a) The Association shall, in response to a written inquiry or telephonic inquiry via a toll-free telephone listing, release certain information as contained in its files regarding the employment and disciplinary history of members and their associated persons, including information regarding past and present employment history with Association members; all final disciplinary actions taken by federal or state or foreign securities agencies or self-regulatory organizations that relate to securities or commodities transactions; all pending disciplinary actions that have been taken by federal or state securities agencies or self-regulatory organizations that relate to securities and commodities transactions and [have been] *are required to be* reported on Form BD or U–4 and all foreign government or self-regulatory organization disciplinary actions that are securities or commodities related and *are required to be* reported on Form BD or U–4; and all criminal indictments, informations or convictions *that are required to be* reported on Form BD or Form U–4. The Association will also release information concerning civil judgments and arbitration decisions in securities and commodities disputes involving public customers.

(b) The Association shall, in response to a request, release to the requesting party a copy of any identified disciplinary complaint or disciplinary decision issued by the Association or any subsidiary or Committee thereof; provided, however, that each copy of:

(1) a disciplinary complaint shall be accompanied by a statement that the issuance of a disciplinary complaint represents the initiation of a formal proceeding by the Association in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint;

(2) a disciplinary decision that is released prior to the expiration of the time period provided under the Code of Procedure for appeal or call for review within the Association or while such an appeal or call for review is pending, shall be accompanied by a statement that the findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the Association;

(3) a final decision of the Association that is released prior to the time period provided under the Securities Exchange Act of 1934 for appeal to the Commission or while such an appeal is pending, shall be accompanied by a statement that the findings and sanctions of the Association are subject to review and modification by the Commission; and

(4) a final decision of the Association that is released after the decision is appealed to the Commission shall be accompanied by a statement as to whether the effectiveness of the sanctions has been stayed pending the outcome of proceedings before the Commission.

Current paragraphs (b) through (k) are redesignated (c) through (l).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDR 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 III below. NASDR has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) In 1988, the NASD established a Public Disclosure Program (''Program'') that, among other things, makes certain types of federal and state disciplinary information on NASD members and associated persons available to the public through the Central Registration Depository (''CRD'') maintained by the NASD.[2] This Program provides investors, customers and the press with access to a number of categories of information on an NASD member or any of the member's associated persons, which are provided to inquiring persons in synopsis form. Subsequent to the establishment of the Program, the Securities Enforcement Remedies and Penny Stock Reform Act of 1990[3] mandated that the NASD implement a toll-free telephone number to provide employment history and disciplinary information about members and associated persons to inquiring persons. The NASD complied with this mandate in April 1992 and, since that time, has made periodic improvements to the Program to expand the scope of information available upon request. One of these improvements included the release of information through the Program of information on pending NASD disciplinary proceedings, which includes providing a synopsis of NASD disciplinary complaints[4] and disciplinary decisions on appeal to the National Business Conduct Committee (''NBCC'').

Those individuals, including the press, who are aware of the availability of information through CRD may obtain a description in synopsis form of any disciplinary complaint or disciplinary decision issued by the Association with respect to any member or associated person of a member by requesting the synopsis from CRD through the NASD's toll-free telephone number or by making a written inquiry. Such persons sometimes, as part of their inquiry, request a complete copy of the disciplinary complaint or decision from the Association. Under the Interpretation on the Release of Disciplinary Information (''Rule''), IM–8130–2,[5] NASD Regulation provides notification to the membership and the press of significant disciplinary decisions when time for appeal and call for review has expired, but the Rule does not specifically authorize the Association to provide copies of any disciplinary complaint or disciplinary

to Katherine A. England, Assistant Director, Division of Market Regulation, SEC (October 2, 1996).

[2] See Notice to members 93–37 (June 1993).

[3] Public Law 101–429, 104 Stat. 931 (1990).

[4] This rule change addresses only ''disciplinary complaints,'' not ''customer complaints.''

[5] The Interpretation was previously cited as ''Resolution of the Board of Governors—Notice to Membership and Press of Suspensions, Expulsions, Revocations, and Monetary Sanctions and Release of Certain Information Regarding Disciplinary History of Members and Their Associated Persons'' and appeared after paragraph 2301 of the NASD Manual, following Article V, Section 1 of the Rules of Fair Practice.

decision, in its entirety, upon request. As a matter of practice, the staff has not provided copies of disciplinary complaints in response to requests. In contrast, the Association has, however, maintained a policy since 1994 of providing complete copies of disciplinary decisions upon request, pursuant to an interpretation of paragraph (a) of the Rule, which permits the Association to release information upon request regarding ''* * * all pending disciplinary actions * * *.'' Such decisions that are issued by a District Business Conduct Committee or the Market Surveillance Committee prior to the expiration of the time during which the decision can be appealed or called for review within the Association are accompanied by a statement that the findings and sanctions could be increased, decreased, or modified by the Association if the matter is appealed to the NBCC or called for review.

NASDR is proposing to amend the Rule to adopt new paragraph (b) to clarify that the Association shall provide, on request, copies of any NASD disciplinary complaint and disciplinary decision. In making a request for a disciplinary complaint, the proposed rule change requires that the requesting party ''identify'' the disciplinary complaint or decision that is being requested. This language is intended to prevent requests for ''all complaints'' or ''all decisions'' of the Association.[6] The language requiring that the party ''identify'' the complaint or decision request will be satisfied where the requesting party identifies a particular broker/dealer or a particular associated person that is a respondent in an NASD disciplinary action (although the date of any action may not be known) or identifies the issue or rule that is the subject of a complaint (where the identity of the member is not known). Although a request may identify a time period when the requested complaint or decision was issued, it would be permissible for the requesting party to obtain a copy of all complaints and decisions related to an identified broker/dealer or associated person without reference to a time period.

In addition, the proposed rule change would require that copies of disciplinary complaints and decisions be accompanied by certain disclosures, in certain circumstances, that are set forth in subparagraphs (b)(1)–(4) in order to advise the recipient of the status of the disciplinary action. In particular, NASDR is concerned that recipients of a copy of a disciplinary complaint understand that the issuance of a complaint does not represent a decision as to any of the allegations contained in the complaint. The proposed rule change, therefore, would require that any copy of a disciplinary complaint be accompanied by a statement that the issuance of a complaint represents the initiation of a formal proceeding by the Association in which findings as to the allegations in the complaint have not been made and that this issuance does not represent a decision as to any of the allegations contained in the complaint. Moreover, disciplinary decisions are issued at the initial hearing level and at a number of appellate review levels of the organization. It is important, therefore, that a recipient of a disciplinary decision be advised when a decision is not considered final by the Association because the time for the respondent to appeal the matter or the time for a reviewing body of the Association to call the matter for review has not expired, or the review of a matter is pending. The proposed rule change provides, therefore, that any copy of a disciplinary decision issued pursuant to the Code of Procedure prior to the expiration of the time for appeal to or call for review within the Association (i.e., by, as applicable, the NBCC, Board of Directors of NASD Regulation, or Board of Governors of the Association) or released while such an appeal or review is pending, would be required to be accompanied by a statement that the findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the Association if the matter is appealed or called for review. This language is consistent with the disclosures that currently are being provided with respect to decisions issued by a District Business Conduct Committee or Market Surveillance Committee prior to the expiration of the time for appeal or call for review, or while an appeal is pending.

Similarly, any copy of a final decision of the Association released prior to the expiration of the time period for the filing of an appeal to the SEC or while such an appeal is pending would be required to be accompanied by a statement that the findings and sanctions of the Association are subject to review by the Commission if the decision is appealed. Finally, any copy of a final decision of the Association released after the decision is appealed to the Commission would be required to be accompanied by a statement that the effectiveness of the decision has or has not been stayed pending the outcome of proceedings before the Commission. This language is drawn from current paragraph (g) of the Rule.

NASDR is also proposing to amend paragraph (a) of the Rule. Currently, the provision appears to prevent information from being provided through the Program if it has not been reported on Form BD or U–4, even though Form BD or U–4 would require the reporting of such information. This was not the intent of the current rule language. NASDR is, therefore, proposing to amend the provision to clarify that information provided through the Program is that information that is required to be reported on Form BD or U–4, regardless of whether the information is actually provided to the NASD on these forms.

(b) NASDR believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[7] of the Act in that the proposed rule change to permit the Association to provide copies of NASD disciplinary complaints and disciplinary decisions to persons upon request will protect investors and the public interest by providing more complete information to such persons than currently can be obtained from the synopsis of disciplinary complaints and decisions that is provided by the Program.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASDR does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. 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

[6] The NASD believes that omnibus requests by commercial organizations for copies of all complaints and decisions for a particular year, for example, would impose a considerable burden on NASDR, impeding the organization's ability to respond to the individual requests of the investing public.

[7] 15 U.S.C. 78*o*–3.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

NASDR has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The Commission has reviewed the NASDR's proposed rule change and believes, for reasons set forth below, that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD. Specifically, the Commission believes the proposal is consistent with Section 15A(b)(6) of the Act, which provides in pertinent part that the rules of the association be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and not to permit unfair discrimination among customers, issuers, brokers or dealers.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after publication in the Federal Register.[8] Paragraph (a) of IM–8310–2 permits the Association to release information on ''all pending disciplinary actions that have been taken by federal or state securities agencies or self-regulatory organizations that relate to securities and commodities transactions * * *'' in response to a request. NASDR believes that this provision permits the Association, upon request, to release copies of its disciplinary complaints and decisions, as well as, providing, on request, a synopsis of such complaints and decisions based on the information in the CRD. The proposed rule change would codify this interpretation of Paragraph (a) of the Rule. The Commission believes that the proposed rule change would benefit the investing public by providing more complete disclosure of information related to disciplinary complaints and disciplinary decisions. Supplying this additional information would benefit the subject of the complaint as well; instead of disseminating a synopsis, lacking detail, a full account of the circumstances would be made available.

Based on the foregoing, the Commission deems it appropriate to approve the proposed rule change on an accelerated basis, pursuant to Section 19 of the Act and the rules and regulations thereunder.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change SR–NASD–96–32 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26396 Filed 10–15–96; 8:45 am]

BILLING CODE 8010–01–M

[8] See, *supra,* note 1.

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78s(b)(2).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before December 16, 1996.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S. W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTAL INFORMATION:

Title: ''Reporting and Recordkeeping Requirements on Small Business Lending Companies''.

Type of Request: Extension of Currently Approved Collections.

Form No.: N/A.

Description of Respondents: Small Business Lending Companies.

Annual Responses: 16.

Annual Burden: 960.

SUPPLEMENTAL INFORMATION:

Title: ''Business Loan Reconsideration Request''.

Type of Request: Extension of Currently Approved Collections.

Form No.: N/A.

Description of Respondents: Individuals seeking a reconsideration of a declined business loan.

Annual Responses: 1,800.

Annual Burden: 3,600.

SUPPLEMENTAL INFORMATION:

Title: ''Reporting and Recordkeeping Requirements for Lenders''.

Type of Request: Extension of Currently Approved Collections.

Form No.: N/A.

Description of Respondents: Small Business Lenders.

Annual Responses: 2,410.

Annual Burden: 2,410.

COMMENTS: Send all comments regarding these information collections to Michael J. Dowd, Director, Office of Loan Programs, Small Business Administration, 409 3rd Street, S.W., Suite 8300, Washington, D.C. 20416. Phone No.: 202–205–6660.

Send comments regarding whether these information collections are necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

SUPPLEMENTAL INFORMATION:

Title: ''Amendments to License Application''.

Type of Request: Extension of Currently Approved Collections.

Form No.: SBA Form 415C.

Description of Respondents: Small Business Investment Companies.

Annual Responses: 1,256.

Annual Burden: 314.

COMMENTS: Send all comments regarding this information collection to Thomas Bresnan, Chief Administration Officer, Office of Borrower and Lender Servicing, Small Business Administration, 409 3rd Street, S.W., Suite 8300, Washington, D.C. 20416. Phone No. 202–205–6514.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

SUPPLEMENTAL INFORMATION:

Title: ''Disaster Home/Business Loan Inquiry Record''.

Type of Request: Extension of Currently Approved Collections.

Form No.: SBA Form 700.

Description of Respondents: Applicants for SBA Disaster Assistance as a result of Administratively declared disasters.

Annual Responses: 3,005.
Annual Burden: 751.

COMMENTS: Send all comments regarding this information collection to Bridget Dusenbury Disaster Resource Specialist, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, S.W. Suite 6050 Washington, D.C. 20416. Phone No.: 202–205–6734. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

SUPPLEMENTAL INFORMATION:

Title: ''Lender Transcript of Account''.
Type of Request: Extension of Currently Approved Collections.
Form No.: SBA Form 1149.
Description of Respondents: SBA Guaranty Lenders.
Annual Responses: 4,073.
Annual Burden: 4,073.

COMMENTS: Send all comments regarding this information collection to Annie McCluney, Program Analyst, Office of Borrower and Lender Servicing, Small Business Administration, 409 3rd Street, S.W., Suite 8300 Washington, D.C. 20416. Phone No.: 202–205–7545. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: October 9, 1996.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 96–26443 Filed 10–15–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2894; Amendment #2]

North Carolina; Declaration of Disaster Loan Area

In accordance with a notice from the Federal Emergency Management Agency, effective October 2, 1996, the above-numbered Declaration is hereby amended to include Rockingham County in the State of North Carolina as a disaster area due to damages caused by Hurricane Fran beginning on September 5, 1996 and continuing.

All counties contiguous to the above-named county have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 4, 1996, and for loans for economic injury the deadline is June 6, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 8, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–26442 Filed 10–15–96; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2896; Amendment #2]

Puerto Rico; Declaration of Disaster Loan Area

In accordance with notices from the Federal Emergency Management Agency, dated September 11 and October 2, 1996, the above-numbered Declaration is hereby amended to include the Municipalities of Juana Diaz, Manati, and Trujillo Alto in the Commonwealth of Puerto Rico as a disaster area due to damages caused by Hurricane Hortense. This Declaration is further amended to establish the incident period for this disaster as beginning on September 9, 1996 and continuing through September 11, 1996.

All contiguous municipalities have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 11, 1996, and for loans for economic injury the deadline is June 11, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 8, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–26441 Filed 10–15–96; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2895; Amendment #2]

Virginia; Declaration of Disaster Loan Area

In accordance with notices from the Federal Emergency Management Agency, dated September 27 and October 2, 1996, the above-numbered Declaration is hereby amended to include the Counties of Albemarle, Botetourt, Cumberland, and Westmoreland, and the Independent City of Charlottesville in the Commonwealth of Virginia as a disaster area due to damages caused by Hurricane Fran and associated severe storm conditions, including high winds, tornadoes, wind driven rain, and river and flash flooding beginning on September 5, 1996 and continuing

In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Essex, Northumberland, Powhatan, and Richmond in the Commonwealth of Virginia may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 6, 1996, and for loans for economic injury the deadline is June 9, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 8, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–26440 Filed 10–15–96; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement: Lignite Power Generation Facility, Choctaw County, MS

AGENCY: Tennessee Valley Authority.

ACTION: Notice of Intent.

SUMMARY: The Tennessee Valley Authority (TVA) will prepare an environmental impact statement (EIS) for a proposed surface lignite coal mine and associated 400 megawatt (MW) lignite coal-fired power plant at a location near the City of Ackerman in Choctaw County in northeastern Mississippi. TVA's proposed actions are the purchase of all or part of the electric power output of the proposed power plant and interconnecting the plant with the TVA power system. The power plant will be owned by a joint venture of the Phillips Coal Company and CRSS, Inc.

DATES: Comments on the scope of the EIS must be postmarked no later than November 15, 1996. TVA will conduct a public meeting in the Ackerman, Mississippi area to discuss the project and obtain comments on the scope of the EIS. The location and time of this meeting are described below in the Scoping Process section.

ADDRESSES: Written comments should be sent to Charles P. Nicholson, National Environmental Policy Act Specialist, Tennessee Valley Authority, mail stop: WT 8C, 400 West Summit

Hill Drive, Knoxville, Tennessee 37902–1499. Comments may also be e-mailed to cnichols@tva.gov.

FOR FURTHER INFORMATION CONTACT: Charles Bach, Tennessee Valley Authority, mail stop: CTR 1D, Muscle Shoals, Alabama 35662–1010. E-mail may be sent to idwhc@tva.gov.

SUPPLEMENTARY INFORMATION:

TVA's Integrated Resource Plan

In TVA's Integrated Resource Plan and Final Environmental Impact Statement, Energy Vision 2020, issued in December 1995, TVA evaluated the need for additional energy resources to meet customer demands in the TVA region and recognized that Independent Power Producers such as this project could fulfill part of the projected needs.

Project Description

A joint venture consisting of CRSS, Inc. and Phillips Coal Company submitted a proposal to TVA for the sale of the total electric power output from the 400 MW power plant. The power plant would use two circulating fluidized bed generating units and burn lignite coal from an adjacent deposit.

Phillips Coal Company owns the rights to extensive lignite coal deposits in northeastern Mississippi. Its proposed North Chester Mine would be designed to produce in excess of three million tons per year of lignite coal for a period of 30 years to supply the power plant. The mine is expected to be a surface mine that will use draglines and a truck and shovel operation to remove the overburden, mine the lignite coal, and reclaim the site. The lignite coal would likely be transported to the power plant by truck and/or overland conveyor. Over the life of the mine, about 4,275 acres would be disturbed and reclaimed.

TVA would connect the power plant to the TVA power distribution system by building a 161-kV, two-circuit, loop connection to the existing Sturgis-Eupora 161-kV transmission line and a 161-kV connection to the existing Louisville substation. These connections would be about 5 and 25 miles long, respectively.

In addition, a rail loop off of the Kansas City Southern and/or Columbus and Greenville railroads, a natural gas pipeline tap and lateral from nearby existing natural gas pipelines, and a water well field and pipeline may also be part of the project.

Although not part of the power plant or lignite coal mine that are the subjects of this EIS, it is anticipated that the power plant would be located in an ''EcoPlex'' industrial park being planned by the State of Mississippi. Although the EcoPlex is not part of TVA's proposed action, this EIS will assess appropriate cumulative impacts of the power plant, mine and EcoPlex. The EcoPlex could also supply the mine-power plant complex with water and waste disposal services.

The EcoPlex would combine various manufacturing, energy production, and service businesses at a common location to help achieve the highest levels of efficiency in terms of energy consumption and joint feedstock/waste utilization. The types of industries that might best be suited for this type industrial park in northeastern Mississippi include: newsprint and other paper and wood products manufacturing and recycling industries; food processing; various recycling industries; industries that use gypsum as feedstock, such as manufacturers of wallboard, cement, and agrichemicals; brick and ceramic manufacturers; specialized aqua-and agriculture industries; and transportation fuel manufacturers.

Proposed Issues to be Addressed

The EIS will discuss the need for the proposed project and describe the existing environmental, cultural, recreational, and socioeconomic resources. It will describe the plant siting and location process, transportation methods for coal and other raw materials, mining methods and their potential environmental impacts. Mine reclamation plans will be discussed as will environmental impacts resulting from construction, operation, and maintenance of the proposed facilities; specifically, impacts to air quality, surface and ground water quality and resources, vegetation, wildlife, aquatic ecology, endangered and threatened species, wetlands and wetland wildlife, aesthetics and visual resources, land use, cultural and historic resources, light, and noise. These concerns and other important issues identified during the scoping process as well as engineering and economic considerations will be used to select a preferred power plant location near the North Chester Mine, mine plan, and other plant processes as appropriate.

Alternatives

In addition to the proposed alternative of purchasing all or part of the electric power output from the power plant, TVA will also consider a ''no action'' alternative which would be not to purchase the output from the plant. In addition, alternative power plant designs, mining and reclamation plans, and lignite coal transport methods may be considered. TVA invites the public to comment on the proposed action and any or all of the alternatives suggested above or to suggest other possible alternatives.

Scoping Process

Scoping, which is integral to the EIS process, is a procedure that solicits public input to the EIS process to ensure that: (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. TVA's procedures implementing the National Environmental Policy Act require that the scoping process commence after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The scope of issues to be addressed in an EIS will be determined, in part, from written comments submitted by mail, and comments presented orally or in writing at a public scoping meeting. The preliminary identification of reasonable alternatives and environmental issues provided in this notice is not meant to be exhaustive or final. TVA considers the scoping process to be open and dynamic in the sense that alternatives other than those given above may warrant study and new matters may be identified for potential evaluation.

The scoping process will include both interagency and public scoping. The agencies expected to participate in interagency scoping include the National Park Service, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and various State of Mississippi agencies including the Department of Environmental Quality, Department of Wildlife, Fisheries, and Parks, the Department of Economic and Community Development, State Historic Preservation Office of the Department of Archives and History, and other federal, state and local agencies as appropriate.

The public is invited to submit written comments or e-mail comments on the scope of this EIS no later than the date given under the DATES section of this notice and/or attend the public scoping meeting. TVA will conduct a public meeting on the scope of the EIS in Ackerman, Mississippi on Tuesday, October 29, 1996. The meeting will be held at Ackerman High School, which is located at 280 East Main Street. Registration for the meeting will be from 6:00 to 6:30 p.m. with the meeting beginning at 6:30 p.m. There will be

visual displays and information handouts available during the registration period. The meeting will begin with brief presentations by representatives of TVA, Phillips Coal Company and CRSS, Inc. explaining the proposed project and the EIS process. Following this presentation there will be small group discussions facilitated by TVA staff to record the issues and concerns that the public believes should be considered in the EIS.

Upon consideration of the scoping comments, TVA will develop alternatives and identify important environmental issues to be addressed in the EIS. Following analysis of the environmental consequences of each alternative, TVA will prepare a draft EIS for public review and comment. Notice of availability of the draft EIS will be published by the Environmental Protection Agency in the Federal Register. TVA will solicit written comments on the draft EIS, and information about possible public meetings to comment on the draft EIS will be announced. TVA expects to release a final EIS by September 1998.

Dated: October 7, 1996.

Kathryn J. Jackson,

Senior Vice President, Resource Group.

[FR Doc. 96–26414 Filed 10–15–96; 8:45 am]

BILLING CODE 8120–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 USC Chapter 35). The Federal Register notice with a 60-day comment period soliciting comments on the following collection of information was published on August 8, 1996 [FR 61, page 41440].

DATES: Comments on this notice must be received on or before November 15, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Mr. Scott Keller or Mr. Charles McGuire, Office of the Secretary, Office of Aviation Analysis, X–57, Department of Transportation, at the address above. Telephone: (202) 366–1031/4534.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1995, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Title: Public Charters.

OMB Control Number: 2106–0005.

Type of Request: Reinstatement, without change, of a previously approved information collection for which approval has expired.

Affected Public: Public charter operators.

Abstract: In 14 CFR 380 (adopted 1979) of its Special Regulations the Department established the terms and conditions governing the furnishing of public charters in air transportation by direct air carriers and public charter operators. Public charter operators arrange transportation for groups of persons on aircraft chartered from direct air carriers. This arrangement is less expensive for the travelers than individually buying a ticket. Further, the charter operator books hotel rooms, tours, etc., at destination for the convenience of the traveler.

Part 380 exempts charter operators from certain provisions of the U.S. Code in order that they may provide this service. A primary goal of Part 380 is to seek protection for the consumer. Accordingly, the rule stipulates that the charter operator must file evidence (a prospectus) with the Department for each charter program certifying that it has entered into a binding contract with a direct carrier to provide air transportation and that it has also entered into agreements with Department-approved financial institutions for the protection of the charter participants' funds. The prospectus must be approved by the Department prior to the operator's advertising, selling or operating the charter. The forms (OST Forms 4532, 4533, 4534 and 4535) that comprise the operator's filing is the information collection at issue here.

In September 1992, the Department issued a notice of proposed rulemaking (NPRM) [57 FR 42864, 9–16–92] to propose, among other revisions, that charter operators need no longer file prospectuses. The NPRM was in response to comments that prospectus filings were burdensome and unnecessary. However, the majority of respondents to the NPRM have urged the Department to retain the existing prospectus filing requirements. They desire the more complete consumer protection provided by the current rule. Without a complete prospectus it would be extremely difficult to assure that financial security and other consumer protection requirements are in place for each public charter operation.

The collection involved here requests general information about the charter operator and direct air carrier that will provide a public charter and requires each to certify that it has contracted with the other to provide the transportation. The routing, charter price and tour itinerary of the proposed charter are also identified. The collection also requires the charter operator, direct air carrier and financial institution(s) involved to certify that proper financial instruments are in place or other arrangements have been made to protect the charter participants' funds and that all parties will abide by the Department's public charter regulations.

Estimated Total Annual Burden on Respondents: 31,343 hours.

Issued in Washington, DC on October 9, 1996.

Phillip A. Leach,

Information Collection Officer, United States Department of Transportation.

[FR Doc. 96–26513 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–62–P

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 USC Chapter 35), 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 burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 18, 1996 [FR 61, page 16969].

DATES: Comments must be submitted on or before November 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, (202) 366–5763, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Motor Carrier Identification Report.

Type of Request: Reinstatement, without change, of previous changes to a currently approved information collection.

OMB Control Number: 2125–0544.

Form Number: MCS–150.

Affected Public: Motor Carriers.

Abstract: Section 206 of the Motor Carrier Safety Act of 1984 requires the Secretary of Transportation to establish minimum safety standards for commercial motor vehicle safety. 49 U.S.C. 504 provides the Secretary of Transportation authority to require special reports containing answers to questions asked by the Secretary and to prescribe the form of records. Authority pertaining to commercial motor vehicle safety has been delegated to the FHWA. In order to administer its safety standards, the FHWA needs to possess a database of entities that are subject to the agency's standards. A database necessitates that entities subject to the FHWA's standards notify the agency of their existence. Therefore, 49 CFR 385.21 requires all motor carriers beginning operations to file the Motor Carrier Identification Report, Form MCS–150, within 90 days of beginning operations.

Estimated Annual Burden: The total annual burden is 2,917 hours.

ADDRESSES: 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.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 9, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–26514 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Highway Administration

Environmental Impact Statement: County of Solano, California

AGENCY: Federal Highway Administration (FHWA). DOT.

ACTION: Amended notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Solano County, California. This notice replaces the one issued on the Federal Register/Volume 49. No. 52/ Thursday, March 15, 1984 due to the project scope has been changed.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Schultz, Chief, District Operations, Federal Highway Administration, California Division, 980 9th Street, Suite 400, Sacramento, California 95814–2724, Telephone: (916) 498–5041.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve State Route (SR) 37 in Solano County, California. Caltrans proposes to construct a four-lane freeway on SR 37 from the Napa River Bridge to the existing freeway section of SR 37 that begins near Diablo Street. It would be constructed in phases on the existing alignment and partially along the new alignment. To reduce congestion of peak traffic low periods, the project will remove four signalized intersections and a railroad crossing from the inner-regional traffic corridor and eliminate an existing two-lane bottleneck between Sacramento Street and Enterprise Street. Two interchanges would be constructed, at Wilson/Sacramento Street and at Route 29. The estimated cost of this project ranges from $75.05 million to $110.05.

Alternatives under consideration include (1) taking no action and (2) constructing a limited access four-lane highway facility using the existing alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local Agencies, and to private organizations and citizens who have previously expressed or are known to have interest to this proposal. Technical Advisory and Strategic Planning Committee meetings have occurred monthly since 1992, and have been open to the public. A public hearing will be held upon completion of the draft EIS. Public notice will be given of the time and place of all formal meetings and hearings.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: October 8, 1996.

Bradley D. Keazer,

Assistant Division Administrator, Federal Highway Administration.

[FR Doc. 96–26393 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–22–M

Surface Transportation Board

[STB No. MC–F–20901]

Greyhound Lines, Inc.—Continuance in Control—Grupo Centro, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Greyhound Lines, Inc. of Dallas, TX (GLI), has filed an application under 49 U.S.C. 14303 to continue in control of its wholly owned subsidiary, Grupo Centro, Inc. (Grupo) upon Grupo's becoming a motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subpart

B. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: This notice is effective November 30, 1996. Comments are due by November 30, 1996. Applicants may reply by December 16, 1996.

ADDRESSES: Send an original and 10 copies of any comments referring to STB No. MC–F–20901 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, send one copy of comments to applicants' representative: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: GLI holds nationwide operating authority in MC–1515 and sub-numbers as a motor common carrier of passengers. GLI also controls the following regional interstate motor carriers of passengers: Texas, New Mexico & Oklahoma Coaches, Inc.; Continental Panhandle Lines, Inc.; and Vermont Transit, Inc.

Grupo has filed an application with the Federal Highway Administration to operate as a motor carrier of passengers over routes between the Mexican border crossing points of San Ysidro and Calexico, CA; Nogales, AZ; and El Paso, Laredo, McAllen, and Brownsville, TX and points elsewhere in the country, including, Bellingham, WA; Denver, CO; Chicago, IL; Atlanta, GA; and Miami, FL.

Grupo is a wholly owned subsidiary of GLI, indirectly controlled through GLI's noncarrier subsidiary, Sistema International de Transporte de Autobuses, Inc. This application will enable GLI to continue in control of Grupo when it becomes an authorized motor carrier of passengers.

Applicants state that aggregate gross operating revenues for GLI and its affiliates have exceeded $2 million during the 12 months preceding the application. They assert that Grupo was organized to render specialized services designed to accommodate the travel requirements of Hispanic passengers traveling between points of entry along the United States/Mexican border and points in the United States with significant Hispanic populations. Allegedly, Grupo's entry into the market will stimulate competition and improve the quality and adequacy of passenger services available to Hispanic passengers. Additionally, applicants maintain that the transaction will result in no increase in fixed charges, and that no employees will be adversely affected.

Applicants certify that: (1) GLI and its affiliates hold satisfactory safety ratings, and Grupo is not as yet rated; (2) GLI maintains and Grupo will procure and maintain sufficient liability insurance to meet the established fitness requirements; (3) neither GLI nor Grupo is domiciled in Mexico, and neither is owned or controlled by a citizen of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicants' representative.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application filed by applicants, we find that the proposed continuance in control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed as having been vacated and a procedural schedule will be adopted to reconsider the application. If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proposed continuance in control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective November 30, 1996, unless timely opposing comments are filed.

Decided: October 7, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26333 Filed 10–15–96; 8:45 am]

BILLING CODE 4915–00–P

Release of Waybill Data

The Surface Transportation Board has received a request from Covington & Burling (Union Pacific Corporation) for permission to use certain data from the Board's 1993, 1994, and 1995 Carload Waybill Samples. A copy of the request (WB468–1—10/2/96) may be obtained from the Office of Economics, Environmental Analysis and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 927–6196.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26437 Filed 10–15–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 32908]

Ormet Railroad Corporation—Exemption From 49 U.S.C.; Subtitle IV

AGENCY: Surface Transportation Board.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board has exempted the Ormet Railroad Corporation from the common carrier obligations under 49 U.S.C. Subtitle IV that arise in connection with its acquisition of a line of railroad from Consolidated Rail Corporation. The grant is made subject to the condition that the Board reserves jurisdiction to conduct a full environmental review contemporaneously with any abandonment or discontinuance of service.

DATES: The exemption is effective on November 15, 1996. Petitions to reopen must be filed by November 12, 1996. Petitions to stay must be filed by October 31, 1996.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 32908 must be filed with the

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the ICCTA), 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. 10502.

Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave. NW., Washington, DC 20423. In addition, a copy of all pleadings must be served on petitioner's representative, Fritz R. Kahn, Esq., Suite 750 West, 1100 New York Avenue NW., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. (TDD for the hearing impaired: (202) 927–5721.)

SUPPLEMENTARY INFORMATION: The subject line, known as the Omal Secondary Track, extends from milepost 60.5 at Powhatten Point to the end of the line, milepost 72.7 at Omal, a distance of 12.2 miles in Monroe County, OH. Ormet Railroad Corporation (ORC) is a wholly owned subsidiary of Ormet Corporation, of Wheeling, WV. The line is operated by Consolidated Rail Corporation under contract with ORC and serves only two shippers, Ormet Primary Aluminum Corporation and Ormet Aluminum Mill Products Corporation, both wholly owned subsidiaries of Ormet Corporation.

Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Ave. N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services, (202) 927–5721.)

Decided: October 7, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26436 Filed 10–15–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Performance Review Board

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1996.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Regional Commissioners are as follows:

Michael Dolan, Deputy Commissioner, Chair

Arthur Gross, Chief Information Officer

David Mader, Chief, Management and Administration

Anthony Musick, Chief Financial Officer

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978 (43FR52122).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–26505 Filed 10–15–96; 8:45 am]

BILLING CODE 4830–01–U

Performance Review Board

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1996.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in the National Office are as follows:

Michael Dolan, Deputy Commissioner, Chair

Gary Bell, Chief Inspector

John Dalrymple, Acting Chief, Taxpayer Service

Herma Hightower, Regional Commissioner, Northeast Region

David Mader, Chief, Management and Administration

Anthony Musick, Chief Financial Officer

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978 (43FR52122).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–26507 Filed 10–15–96; 8:45 am]

BILLING CODE 4830–01–U

Performance Review Board

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1996.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in the Office of the Chief Inspector are as follows:

Michael Dolan, Deputy Commissioner, Chair

John Dalrymple, Acting Chief, Taxpayer Service

Anthony Musick, Chief Financial Officer

Dennis Schindel, Deputy Assistant Inspector General for Audit Operations, Department of the Treasury

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978 (43FR52122).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–26508 Filed 10–15–96; 8:45 am]

BILLING CODE 4830–01–U

Performance Review Board

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1996.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone No. (202) 622–6320 (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service

Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in Field Offices are as follows:

Michael Dolan, Deputy Commissioner, Chair
Gary Bell, Chief Inspector
Gary Booth, Regional Commissioner, Midstates Region
Marilyn Day, Regional Commissioner, Western Region
Herma Hightower, Regional Commissioner, Northeast Region
Robert Johnson, Regional Commissioner, Southeast Region

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978 (43 FR 52122).

Margaret Milner Richardson.

Commissioner of Internal Revenue.

[FR Doc. 96–26509 Filed 10–15–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Submission for OMB Review; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the OCC, the OTS, the Board, and the FDIC (collectively, the ''Agencies''), hereby give notice that they plan to submit to the Office of Management and Budget (OMB) requests for review of the information collection system described below. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Comments are invited on: (a) whether the proposed revisions to the following collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility; (b) the accuracy of the agencies' estimate of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 15, 1996.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the Agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Ninth Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219; Attention: Paperwork Docket No. 1557–0127 [FAX number (202) 874–5274; Internet address: reg.comments@occ.treas.gov]. Comments will be available for inspection and photocopying at that address.

OTS: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552, Attention 1550–0026. These submissions may be hand delivered to 1700 G Street, N.W. From 9:00 a.m. to 5:00 p.m. on business days, they may be sent by facsimile transmission to FAX Number (202) 906–7755. Comments over 25 pages in length should be sent to FAX Number (202) 906–6956. Comments will be available for inspection at 1700 G Street, N.W., from 9:00 a.m. until 4:00 p.m. on business days.

Board: Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FDIC: Written comments should be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to Room F–402, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. Comments may be sent through facsimile to: (202) 898–3838 or by the Internet to: comments@fdic.gov. Comments will be available for inspection at the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that have been submitted to OMB for review and approval may be requested from the agency clearance officer, whose name appears below.

OCC: Jesse Gates, OCC Clearance Officer, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219

OTS: Colleen M. Devine, OTS Clearance Officer, (202) 906–6025, Office of Thrift Supervision, 1700 F Street, N.W., Washington, D.C. 20552.

Board: Mary M. McLaughlin, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Proposal to request approval from OMB of the extension, with revision, of the following report:

1. Report title: Annual Report of Trust Assets/Annual Report of International Fiduciary Activities—

Form Number: FFIEC 001 and FFIEC 006.
Type of Review: Regular.
Frequency of Response: Annual.
Respondents: Business or other for profit.

For OCC:

OMB Number: 1557–0127.
Number of Respondents: 1,235 (FFIEC 001); 100 (FFIEC 006).
Total Annual Responses: 1,335.
Estimated Time per Response: 4.3 burden hours (FFIEC 001); 4.0 burden hours (FFIEC 006).
Total Annual Burden: 5,805 burden hours.

For OTS:

OMB Number: 1557–0026.
Number of Respondents: 116 (FFIEC 001).
Total Annual Responses: 116.
Estimated Time per Response: 2.30 burden hours.
Total Annual Burden: 266.8 burden hours.

For Board:

OMB Number: 7100–0031.
Number of Respondents: 635 (FFIEC 001); 56 (FFIEC 006).
Total Annual Responses: 691.
Estimated Time per Response: 3.82 burden hours (FFIEC 001); 4.0 burden hours (FFIEC 006).
Total Annual Burden: 2,649.7 burden hours.

For FDIC:

OMB Number: 3064–0024.
Number of Respondents: 1,834 (FFIEC 001).
Total Annual Responses: 1,834.
Estimated Time per Response: 3.55 burden hours.
Total Annual Burden: 6,510.7 burden hours.

Description: This information collection (FFIEC 001 and FFIEC 006) is mandatory: 12 U.S.C. 161 and 1817 (for national banks), 12 U.S.C. 1464, 1725, 1730 (for thrift institutions), 12 U.S.C. 248(a) and 1844(c) (for state member banks and bank holding companies), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). The FFIEC 006, collected by the OCC and the Board, is given confidential treatment [5 U.S.C. 552(b)(8)]. Small businesses (i.e., small banks) are affected.

Abstract: These interagency reports collect information on fiduciary asset totals and activities. They are used to monitor changes in the volume and character of discretionary trust activity, the volume of nondiscretionary trust activity, and the resource needs for supervisory purposes. The data are also used for statistical and analytical purposes.

Current Actions: The revisions to the FFIEC 001 consist of the addition of a new trust income statement that must be completed by those banks and savings associations with $100 million or more in total trust assets and by all nondeposit trust companies. In general, institutions will report trust fees by type of trust account, three general categories of expense, and the amount of settlements, surcharges, and other losses gross and net of recoveries. If an institution's aggregate losses are $100,000 or more in any year, individual losses of $10,000 or more must be reported by type of account. The information reported by individual institutions in this schedule will not be publicly available, but aggregate data will be published by the Federal Financial Institutions Examination Council (FFIEC). The new trust income schedule enables the Agencies to better target their supervision of trust activities to those areas that pose greater risk to institutions. The proposed new schedule would become effective with the December 31, 1996, report date.

On June 30, 1995, the FFIEC, on behalf of the agencies, published a notice in the Federal Register (60 FR 34252) describing in detail and inviting comment on the proposed changes to this collection of information. All comments received by the agencies in response to that notice were addressed in supporting statements developed to justify the changes.

Additionally, the submission requests renewal, without change, of the FFIEC 006.

This notice provides the public with the opportunity to obtain, review, and comment on, the agencies' supporting statements.

Dated: October 8, 1996.

Karen Solomon,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated: October 8, 1996.

Catherine C.M. Teti,

Director, Records Management and Information Policy, Office of Thrift Supervision.

Board of Governors of the Federal Reserve System, October 10, 1996.

William W. Wiles,

Secretary of the Board.

Dated at Washington, DC, this 7th day of October 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–26577 Filed 10–15–96; 8:45 am]

BILLING CODE 4810–33–P; 6720–01–P; 6210–01–P; 6714–01–P

Corrections

Federal Register
Vol. 61, No. 201
Wednesday, October 16, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip from Canada; Antidumping Duty Administrative Review; Extension of Time Limit

Correction

In notice document 96–25116 appearing on page 51261 in the issue of Tuesday, October 1, 1996, in the last line of the Summary ''January 1, 1996'' should read ''January 1, 1995''.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT96-101-000]

Equitrans L.P.; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 96–25691 appearing on page 52784 in the issue of Tuesday, October 8, 1996, in the first column, the date below the subject heading ''October 21, 1996'' should read ''October 2, 1996''.

BILLING CODE 1505–01–D

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Part 722

[AIDAR Notice 96–1]

RIN 0412–AA29

Miscellaneous Amendments to Acquisition Regulations; Corrections

Correction

In the correction to rule document 96–25059 on page 52497 in the issue of Monday, October 7, 1996, make the following correction:

722.103 [Corrected]

On page 52497, in the second column, in the last line ''Section'' should read ''Sections''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-ACE-9]

Establishment of Class E Airspace; Mosby, MO

Correction

In rule document 96–25127, beginning on page 51361, in the issue of Wednesday, October 2, 1996, make the following correction.

On page 51362, in the second column, in the ACE MO E5 Mosby, MO [New] entry, in the last paragraph, ''mile radius of'' should read ''mile radius to''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1111

[STB Ex Parte No. 527]

Expedited Procedures For Processing Rail Rate Reasonableness, Exemption And Revocation Proceedings

Correction

In rule document 96–25515 beginning on page 52710 in the issue of Tuesday, October 8, 1996, make the following correction:

§ 1111.8 [Corrected]

On page 52712, in the second column, in § 1111.8, the second flush paragraph should read as set forth below:

Day 7 or before—Conference of the parties convened pursuant to section 1111.9(b).

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

17 CFR Part 420

RIN: 1505-AA53

Office of the Assistant Secretary for Financial Markets; Government Securities Act Regulations: Large Position Rules

Correction

In the correction to rule document 96–23331 published on page 52498 in the issue of Monday, October 7, 1996, correction 2 to § 420.5 should be removed. The original date ''March 31, 1997'' is correct and should not be replaced with ''March 11, 1997''.

BILLING CODE 1505–01–D

federal register

Wednesday
October 16, 1996

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 13 and 16

Rules of Practice for Federally-Assisted Airport Proceedings; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 13 and 16

[Docket No. 27783; Amendment No. 13–27, 16]

RIN 2120–AF43

Rules of Practice for Federally-Assisted Airport Proceedings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rulemaking establishes rules of practice for filing complaints and adjudicating compliance matters involving Federally-assisted airports. The rule addresses exclusively airport compliance matters arising under the Airport and Airway Improvement Act (AAIA) of 1982, as amended; certain airport-related provisions of the Federal Aviation Act of 1994, as amended; the Surplus Property Act, as amended; predecessors to those acts; and regulations, grant agreements, and documents of conveyance issued or made under those acts. The rule is intended to expedite substantially the handling and disposition of airport-related complaints.

EFFECTIVE DATE: This rule is effective December 16, 1996.

FOR FURTHER INFORMATION CONTACT: Barry Molar or Frank J. San Martin, Airports Law Branch (AGC–610), Office of the Chief Counsel, (202) 267–3473, Federal Aviation Administration, (FAA), 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

A notice of proposed rulemaking (NPRM) for this rulemaking was issued on June 9, 1994 (59 FR 29880). The NPRM proposed to amend the FAA's existing complaint and adjudication procedures, 14 CFR Part 13, ''Investigative and Enforcement Procedures,'' to remove from the coverage of part 13 the airport-related matters that will be handled under the new part 16. Certain disputes between U.S. and foreign air carriers and airport proprietors concerning the reasonableness of fees imposed by airport proprietors are not covered by the rule, but by 14 CFR part 302, subpart F, pursuant to section 113 of the Federal Aviation Act of 1994 (FAAct), Public Law No. 103–305 (August 23, 1994), 49 United States Code (U.S.C.) 47129.

On September 16, 1994, the FAA published a notice to withdraw subpart J of the proposed rule, subpart J contained special procedures for handling airport fee complaints by air carriers [59 FR 47568]. The withdrawal became necessary with the passage of section 113 of the FAA Act, which contained specific provisions for airport fee complaints by air carriers that differed from, and were inconsistent with, subpart J. The withdrawal notice also extended the comment period for the remainder of the NPRM, subparts A through I, to December 1, 1994 [59 FR 47568]

Discussion of Comments

Sixteen commenters responded to the NPRM. Commenters included the Air Freight Association; Air Line Pilots Association (ALPA); Air Ottawa Flying Service, Inc.; Aircraft Owners and Pilots Association (AOPA); Airports Council International-North America (ACI–NA); American Car Rental Association (ACRA); Hawkins, Delafield & Wood; Hogan & Harston; Maryland Aviation Administration; Melbourne Airport Authority; National Association of State Aviation Officials (NASAO); National Business Aircraft Association, Inc. (NBAA); National Air Transportation Association (NATA); Newton & Associates, Inc. (NAI); Regional Airline Association (RAA); and the United States Parachute Association (USPA).

Seven commenters generally support the promulgation of the proposed rule with some reservations. The remaining commenters address specific sections of the proposed rule.

A discussion of the issues most widely addressed in the comments and an analysis of the final rule follows. All comments received were considered by the agency. The summary of comments is intended to represent the general divergence or correspondence in industry views on various issues, and is not intended to be an exhaustive restatement of the comments received. Comments pertaining to withdrawn subpart J will not be addressed.

Standing

A number of commenters address issues concerning who should be able to file a complaint under new part 16. ACI–NA strongly supports limiting a complainant to a person ''directly and substantially affected by any alleged non-compliance,'' under proposed § 16.23. Otherwise, ACI–NA argues, proceedings could be initiated by persons making only minimal use of an airport, burdening both the respondent and the FAA with the time and expense of administrative proceedings. AOPA states it is concerned that, under proposed § 16.23, an association would not have standing to file a complaint on behalf of its individual members. ACRA requests clarification that a nonaeronautical user of an airport, such as a car rental company, could file a complaint under part 16.

The final rule adopts the ''directly and substantially affected'' standard of the NPRM, with a special applicability provision for cases where review diversion is alleged. Under § 16.23(a) of the final rule, a person directly and substantially affected by any alleged noncompliance may file a complaint with the Administrator. Under § 16.3 of the final rule, a ''complaint'' is defined as ''a written document * * * filed with the FAA by a person directly and substantially affected by anything allegedly done or omitted to be done * * * in contravention of any provision of any Act, as defined in this section.'' Complaints by persons not ''directly and substantially affected'' by respondent's alleged noncompliance will be subject to dismissal with prejudice under part 16.

Persons alleging revenue diversion by an airport, as defined in 49 U.S.C. 47107(b), that do business with, and pay fees or rents to, the airport, are considered in the final rule to be directly and substantially affected by the alleged revenue diversion for the sole purpose of having and standing to file a revenue diversion complaint under Part 16. This special applicability provision for complaints of revenue diversion is necessary because revenue diversion principally affects the United States as the grantor of the federal airport funds allegedly diverted. However, entities that do business on the airport and pay fees to the airport have some interest in alleging revenue diversion because their payments constitute airport revenue.

An association will have to meet the same ''directly and substantially affected'' standing requirement individually, but will be able to file a part 16 complaint as a representative of its members who are ''directly and substantially affected'' by an act or omission of respondent.

The standing requirement is necessary to assure that scarce agency resources are devoted to matters in which the complainant's interest is sufficient to justify the burden of processing a complaint under part 16. Parties who meet part 16 standing requirements may be represented by duly authorized representatives.

Nonaeronautical users of airports are subject to the same ''directly and substantially affected'' standard as aeronautical users, and could forseeably have standing to file a complaint under

part 16. For example, an airport duty-free shop could have standing to file a part 16 complaint alleging revenue diversion, and an airport concession that is a disadvantaged business enterprise (DBE) could have standing to file a part 16 complaint alleging non-compliance with the applicable DBE regulation. However, most of an airport's obligations are intended for the benefit of aeronautical users. A complaint alleging that an airport operator's treatment of a nonaeronautical user violates such obligation would be dismissed even though the nonaeronautical user was directly and substantially affected by the alleged practice. For example, the assurance against unjust discrimination by an airport operator only applies to aeronautical users, so a complaint by a nonaeronautical user alleging unjust discrimination by an airport operator would be dismissed.

Notwithstanding, the standing requirement, complaints that are dismissed because complainant lacks standing under Part 16 may be referred by the FAA to the appropriate FAA region for consideration under Subpart D, Special Rules Applicable to Proceedings Initiated by the FAA.

Pre-complaint Resolution

Most commenters approve of the proposed requirement in § 16.21, that a person engage in good faith efforts to informally resolve a disputed matter, directly with the person or entity in alleged noncompliance, before filing a complaint. ACI–NA supports the proposed rule but is concerned that the mention of ''mediation, arbitration, or use of a dispute resolution board'' in § 16.21 will be interpreted to mean that such alternative dispute resolution (ADR) methods are mandatory. AOPA suggests that the requirement to undertake informal resolution before filing a complaint would be inappropriate to complaints filed by general aviation and add to the costs and time to arrive at resolution. USPA states that part 16 would not permit contact with the FAA at the local level for assistance.

Under § 16.21 as adopted, it will be necessary for a potential complainant to certify that good faith efforts have been made to achieve informal resolution. However, the final rule does not require any particular informal resolution method, and mentions mediation, arbitration, and dispute resolution board as examples only. The final rule has been changed to add that the local FAA Airport District Office (ADO), or FAA Regional Airports Division, may be asked by the parties to assist them in resolving the dispute informally. That change is intended to make the local airports office available to mediate a dispute, and reflects the FAA's experience. In many cases, the involvement of the FAA ADO or regional airports division can facilitate informal resolution. Allegations of revenue diversion, however, may not lend themselves to full resolution in the pre-complaint process unless the proposed resolution addresses the total amounts allegedly diverted by the airport. Nevertheless, a complainant must show that informal resolution was attempted.

Hearing

Section 16.31(d) provides the respondent with the opportunity for a hearing if the initial determination finds the respondent in noncompliance and proposes the issuance of a compliance order and an opportunity for a hearing required by statute. In all other cases no opportunity for a hearing is provided, except at the discretion of the agency.

The law firm of Hogan & Hartson proposes a fact-finding hearing before the initial determination is issued in order to develop the factual record. This recommendation is not adopted in the final rule.

Before issuing the initial determination, the FAA engages in the process of investigating a complain. While complainants are entitled to having their complaints investigated, they do not have a property interest sufficient to require an oral evidentiary hearing as part of that investigation, even when the investigation leads to a dismissal of a complaint.

A respondent may be entitled to a hearing in some cases before the FAA takes adverse action. However, § 16.31(d) provides an opportunity for a hearing in those cases after the initial determination is made and before any final agency action is taken. There is no need to provide a respondent with an additional oral evidentiary hearing during the investigatory stage. Furthermore, the factual record will be developed by the supporting documents that are required to be submitted with each pleading under § 16.23, an by any additional information submitted by the parties or developed through informal investigation under § 16.29.

Several commenters argue that, contrary to § 16.203(b)(1), which provides in the NPRM that the respondent and the agency are the only parties to the post-initial determination hearing, the complainant should also be a party to the hearing. The NBAA argues that a complainant should be a party to the hearing because the complainant's participation will help develop the record of the case. NATA and Air Ottawa Flying Service, Inc., argue that nonhearing party status for a complainant deprives the complainant of due process of law because the complainant may have property interests at stake.

The final rule revised § 16.203(b)(1) to allow complainant to be a party to a hearing along with the respondent and the agency. Under § 16.31(d), a case proceeds to a hearing only after the FAA has found against the respondent in an initial determination that proposes the issuance of a compliance order. Thus, at the hearing the FAA has the burden of proof to establish the validity of its initial determination, including the proposed order of compliance under § 16.109. The respondent is a party to the hearing who seeks reversal of the FAA's initial determination. Although, a complainant's status as an airport user alone does not give rise to a sufficient property interests to justify party status as a matter of right, party status for the complainant will permit it to have an opportunity to assist in the development of the factual record as pointed out by NBAA. In addition, providing automatic party status will avoid burdening the hearing officer and parties with routine requests for intervention by complainant. The rule provides the hearing officer with ample powers to control the conduct of the hearing and to assure that complainant's participation does not unduly delay the proceedings.

As noted in the NPRM, in the case in which an adjudicatory hearing would be held (under § 519 of the AAIA or § 1002 of the FAA Act), the hearing procedures are intended to permit the FAA to complete compliance hearings within 180 days, while assuring that a respondent receives a fair hearing and an opportunity to present evidence and argument to support its position. Section 519 specifies that the FAA may temporarily withhold new grants.

Several commenters object to proposed § 16.3 which provides that the part 16 hearing officer is an attorney designated by the FAA. They state that the proposed provision gives the appearance and possibility of nonobjectivity. NBAA suggests that hearing officers be administrative law judges.

The commenters' concerns about the independence and objectivity of an FAA designated hearing officer are misplaced. Under the terms of § 16.3, no FAA attorney in the region where the noncompliance allegedly occurred, or in the Airports and Environmental Law

Division, may be a hearing officer. This excludes all FAA attorneys who could have access to factual knowledge of a part 16 complaint obtained by means other than the administrative record, insures that the hearing officer is independent of the offices that conduct investigations and prosecutions, and insures that the hearing officer is objective and independent.

Further, section 519 by its terms requires the FAA to provide notice and ''an opportunity for hearing'' before imposing certain sanctions. The simple requirement for a hearing, without more, has been held not to constitute ''an adjudication required by statute to be determined on the record after opportunity for an agency hearing,'' within the meaning of section 554 of the Administrative Procedure Act (APA). *See, e.g., Friends of the Earth* v. *EPA,* 966 F.2d 690, 693 (D.C. Cir. 1992); *St. Louis Fuel and Supply Co., Inc.* v. *FERC,* 890 F.2d 446, 448 (D.C. Cir. 1989). Accordingly, part 16 is not required by the APA to include all of the provisions of sections 554, 556 and 557 of the APA. In particular, the requirement that administrative law judges serve as hearing officers does not apply.

In the interests of assuring a fair hearing, however, part 16 includes many of the elements required by sections 554, 556 and 557 of the APA. For example, the hearing officer is required to issue an initial decision; *ex parte communications* are prohibited; separation of the prosecutorial and decision-making functions are required; and the hearing officer has virtually all of the authority specified in section 556(c).

Intervention

AOPA and NBAA comment that the intervention provisions of § 16.207 are too restrictive and give the hearing officer too much discretion in admitting a new party to a hearing. As explained earlier, a part 16 hearing is to a large extent a proceeding in which the FAA acts as a prosecutor seeking an order of compliance under § 16.109 against respondent within the statutory time limits for issuing such actions. Furthermore, complainant will under the final rule be a party to the hearing. For these reasons, intervention in such a proceeding should only be allowed if it will not unnecessarily broaden the issues, or cause delay, and, if the person requesting intervention has interests that need to be protected.

Analysis of the Provisions of the Final Rule

After careful review of the available data, including the comments received, the FAA has determined to adopt this proposed rule with the changes described previously.

Subpart A—General Provisions

Subpart A includes provisions of general applicability to proceedings brought under part 16, definitions of terms used in the regulation, and a provision on separation of functions.

The final rule modifies proposed § 16.1(a) to exclude from the coverage of part 16 disputes between U.S. and foreign air carriers and airport-proprietors concerning the reasonableness of airport fees now covered by 14 CFR part 302, as mandated by Congress in the FAA Act, Public Law No. 103–305 (August 23, 1994).

Proposed § 16.1(d) is modified to specify that part 16 applies to investigations initiated by the FAA, as well as complaints filed with the FAA on or after the effective date of the rule.

The definitions in § 16.3 are, for the most part, derived from the definitions of like or similar terms in 14 CFR part 13. The term ''agency employee'' defined as any employee of the Department of Transportation, was added to indicate that other offices within the Department of Transportation may assist the FAA in part 16 cases.

The title of ''Assistant Administrator for Airports'' in the definitions section and throughout the text of the rule has been changed in the final rule to ''Associate Administrator for Airports'' to reflect the correct title for this FAA official, as changed by a recent agency reorganization.

The term ''Director,'' defined as the Director of the Office of Airport Safety and Standards, was added to the definitions section and to the text of the rule. The ''Director'' replaces the ''Assistant Administrator'' as the decisionmaker of the initial determination without a hearing under § 16.31, as discussed more fully herein.

Although not technically incorrect, the term ''FAA decisionmaker'' was deleted from the definitions section and text of the final rule because the term is unnecessary. Deletion of the term should avoid confusion surrounding the ultimate decisionmaker in appeals from initial determinations of the Director without a hearing under § 16.31, and from the initial decisions of hearing officers after a hearing under § 16.241. In both cases, the appeal will be submitted to the Associate Administrator, who will issue a final decision under either § 16.33 or § 16.241.

The substitution of Director and Associate Administrator as decisionmakers instead of higher-level officials reflects the concerns and experiences of agency personnel who reviewed the proposed rule. The Director and Associate Administrator are experienced in airport matters and may be more accessible within the short time periods in the final rule for issuing decisions. The substitution also conforms more closely to current practice in deciding complaints regarding airport compliance.

The term ''Presiding officer'' was deleted from the definitions section because it was referred to only in subpart J, which was withdrawn.

The final rule contains no changes to the separation of function section, § 16.5, except that ''Associate Administrator'' replaces ''Administrator'' in § 16.5(b) and ''FAA decisionmaker'' in § 16.5(c).

Separation of functions is not required by statute because hearings under part 16 are not subject to APA hearing requirements; however, the separation is provided to promote confidence in the impartiality and integrity of decisions under the new procedures. Separation of prosecutorial and adjudicatory functions will be provided from the time the Director's determination is issued in all cases in which an opportunity for hearing is provided, including cases in which the respondent waives hearing and appeals the Director's determination in writing to the Associate Administrator. When separation applies, the Director will be considered as performing the investigatory and prosecutorial function and will not participate in the decision of the Associate Administrator or hearing officer.

Subpart B—General Rules Applicable to Complaints, Proceedings, and Appeals Initiated by the FAA

This subpart applies to all phases of the investigations and adjudications under this part.

The provisions governing filing and service of documents, computation of time, and motions (§§ 16.13, 16.15, 16.17, and 16.19), are based on similar provisions in the Federal Rules of Civil Procedure, the Department of Transportation's Rules of Practice in Proceedings (14 CFR part 302), the FAA Rules of Practice in Civil Penalty Actions (14 CFR part 13, subpart G), and the National Transportation Safety Board's (NSTB) Rules of Practice in Air Safety Proceedings (49 CFR part 821). The proposed rule was modified to change the agency address in § 16.13. To insure timely processing and to reflect

changes in the organization of the Office of the Chief Counsel ''FAA Part 16 Airport Proceedings Docket (AGC–600)'' replaces ''FAA Enforcement Docket (AGC–10).'' The additional 5 days provided after service on a party of a document by mail was changed to 3 days in § 16.17(c). This revision conforms to the ''mail rule'' used in federal practice under the Federal Rules of Civil Procedure.

Subpart C—Special Rules Applicable to Complaints

The final rule requires, under § 16.21, a potential complainant to engage in good faith efforts to resolve the disputed matter informally with potentially responsible respondents before filing a complaint with the FAA under part 16. Informal resolution may include mediation, arbitration, use of a dispute resolution board, or other form of third-party assistance, including assistance from the responsible FAA Airports District Office or FAA Regional Airports Division.

Under § 16.21, it will be necessary for the potential complainant or its representative to certify that good faith efforts have been made to achieve informal resolution. To protect the parties and for consistency with Rule 408 of the Federal Rules of Evidence, the certification will not include information on monetary or other settlement offers made but not agreed upon in writing. As explained earlier, under § 16.21(a), the FAA ADO or Regional Airports Division, will be available upon request to assist the parties with informal resolution.

The final rule retains the requirement that a complainant be ''directly and substantially affected by any alleged noncompliance'' in order to have standing to file a complaint under § 16.23. However, as explained above complainants alleging revenue diversion by an airport will be considered to be directly and substantially affected by the alleged revenue diversion, if complainants do business with the airport and pay fees or rentals to the airport.

To provide a more efficient and expedited process the time periods for filing a reply to the answer and a rebuttal to the reply in § 16.23 (e) and (f) were reduced from 15 to 10 days.

At the suggestion of one commenter, the final rule adds ''lack of standing'' as another possible ground for dismissal with prejudice under § 16.25. Besides dismissal of complaints that clearly do not state a cause of action, or those that do not come within the jurisdiction of the Administrator, a complaint may also be dismissed if the complainant lacks standing to file the complaint under §§ 16.3 and 16.23. As a final order of the agency, a dismissal with prejudice would be appealable to a United States Court of Appeals.

As explained above, the final rule substitutes the Director of the Office of Airport Safety and Standards as the official who makes the initial determination after investigation under § 16.31. The Director would issue an initial determination in every case in which the FAA investigates a complaint. Under the final rule, the agency is required to issue a Director's determination in 120 days from the due date of the last pleading (*i.e.*, reply or rebuttal). The provision in the NPRM allowing the Director to extend the period for issuing an initial determination by 60 days for good cause was deleted from the final rule in order to further expedite this administrative complaint procedure.

The Director's determination is intended to provide a timely and authoritative indication of the agency's position on a complaint. While the Director's determination can be appealed to the Associate Administrator under § 16.33, the FAA expects that, in many instances, the Director's determination will resolve the issues raised in the complaint to the satisfaction of the parties. In such cases, the parties may find it more beneficial to negotiate a solution based on the FAA's initial position than to continue to litigate the matter.

Under the final rule, the Associate Administrator will issue the final decision on appeal from a Director's determination without a hearing under § 16.33. If the initial determination finds the sponsor in compliance and dismisses the complaint, the complainant may appeal the determination by a written appeal to the Associate Administrator within 30 days. The Associate Administrator is required to issue a final agency decision in an appeal by a complainant within 60, not 30 days of the due date for the reply brief, as proposed in the NPRM. The additional time for issuing a final agency decision was added to the final rule to assure the agency adequate time to review the record, prepare, and issue a final decision.

If the Director's determination contains a finding of noncompliance and the respondent is entitled to a hearing, the determination will provide the sponsor the opportunity to elect an oral evidentiary hearing under subpart F. The procedure for electing or waiving a hearing is set forth in subpart E. If the respondent waives a hearing and instead elects to file a written appeal to the Associate Administrator, a final decision will be issued by the Associate Administrator under § 16.33.

Subpart D—Special Rules Applicable to Proceedings Initiated by the FAA

Section 16.101 makes clear the FAA's continuing authority to initiate its own investigation of any matter within the applicability of this part without having received a complaint, as authorized by §§ 313 and 1002 of the FAA Act and § 519 of the AAIA.

Subpart E—Proposed Orders of Compliance

Subpart E contains procedures that provide the respondent an opportunity to file a request for hearing within 20 days after service of the Director's determination if the determination proposes a sanction against the sponsor subject to § 519(b) of the AAIA or § 1002 of the FAA Act. The 20-day period to file a request for hearing was reduced from 30 days in the NPRM in order to provide a more efficient and expedited process. If the respondent elects a hearing, the agency will issue a hearing order.

Alternatively, if the respondent waives hearing and instead files a written appeal (within 30 days), the Associate Administrator will issue a final decision in accordance with the procedures set forth in § 16.33. If the respondent fails to respond to the Director's determination, the initial determination becomes final.

The final rule, based on comments received, includes a new ground for the agency to provide the opportunity for a hearing under § 16.109(a): If the agency proposes to issue an order withholding approval of any new application to impose a passenger facility charge pursuant to § 112 of the FAA Act, 49 U.S.C. 47111(e). That new statutory section creates additional enforcement mechanisms against illegal revenue diversion including the withholding of a new application to impose a passenger facility charge. The statute requires the FAA to provide an opportunity for hearing before imposing this sanction.

The opportunity for a hearing by the agency under part 16 is limited to those cases where there is a statutory requirement to offer the opportunity for a hearing before the FAA takes a particular action, or specific cases in which the FAA elects to offer a hearing.

Section 16.109(b)(3) allows respondent and complainant to file a joint motion to withdraw the complaint and dismiss the proposed compliance action. The FAA may, subject to its discretion, grant the motion if it finds that a settlement by the parties fully

resolves the complaint violation and further compliance action is not necessary.

Subpart F—Hearings

Subpart F contains the procedures for initiating and conducting adjudicative hearings. The hearing order, issued by the Deputy Chief Counsel under § 16.201, will set the scope of the hearing by identifying the issues to be resolved, as well as assigning the hearing officer. If no material facts that require oral examination of witnesses are in dispute, the hearing may be limited to submission of briefs and oral argument.

In the hearing, the agency attorney will represent the agency's position before the hearing officer and will have the same status as any other representatives of a party. The rule includes commonly used adjudicatory procedures, such as representation of the parties by attorneys, intervention, participation by non-parties, pretrial procedures and discovery, the availability of compulsory process to obtain evidence, and procedures for using at the hearing. These provisions are intended to provide the parties with a reasonable opportunity to prepare their cases, while allowing the process to be completed expeditiously. To assure an expeditious hearing process, paragraph (b) was added to § 16.213, discovery, to emphasize the hearing officer's authority and duty to limit discovery wherever feasible.

The final rule made the following clarifications and corrections to the subpart based on comments received. The final rule added ''or notice of investigation'' to § 16.201(1) to clarify that the provisions of subpart F may apply to proceedings initiated by the FAA under subpart D. The final rule deleted an incorrect citation in § 16.203(a)(2) and replaced it with a citation to § 16.13.

In the NPRM, the last phrase in proposed § 16.209(d) cited section 519(b) of the AAIA. The citation to the AAIA was included because the AAIA provision contains the 180-day time limitation for a determination which could affect the length of extensions of time granted under part 16. (Although, at this time, the FAA does not foresee any circumstances where it would provide for a hearing and section 519(b) of the AAIA would not be applicable, in a case not covered by section 519(b), an extension of time by the hearing officer for any reason could extend all of the due dates beyond the 180-day time limitation.) This provision is being modified in the final rule to clarify this point.

The provisions of § 16.233 on evidence, in part, are to permit the hearing officer to exercise control over the hearing. Contrary to the suggestion of one commenter, they are not intended to authorize the hearing officer to preclude all cross-examination of a witness.

In keeping with the time limitations imposed by section 519(b) of the AAIA, § 16.235(a) of the final rule retains the provision permitting the hearing officer to allow written argument during the hearing only if the hearing officer finds that such argument would not delay the hearing. Parties may make their arguments in posthearing briefs under § 16.235(b).

Subpart G—Initial Decisions, Orders and Appeals

Subpart G provides procedures for issuance of initial decisions and orders by hearing officers, appeals of the initial decision to the Associate Administrator for Airports, and issuance of consent orders.

Section 16.241 governs procedures and time frames for initial decisions and administrative appeals based on 14 CFR 13.20(g)–(i). However, shorter time periods are provided to accommodate the time limits of § 519 of the AAIA. In appeals from initial decisions of hearing officers, under § 16.241(c) and 16.241(f)(2), the Associate Administrator must issue the final agency decision within 30 days of the due date of the reply. This provision insures that the final agency decision is issued within the 180-day time period of section 519.

In addition, the rule includes a provision for *sua sponte* review of an initial decision by the Associate Administrator, consistent with the practice under 14 CFR 302.28(d).

Section 16.243 governing disposal of cases by consent orders is derived from 14 CFR 13.13.

As explained above, the final rule replaced all references to the ''FAA decisionmaker,'' though technically correct, with the ''Associate Administrator,'' to avoid confusion and clarify. The ultimate decisionmaker in part 16 proceedings, with or without hearings, is the Associate Administrator for Airports for the reasons previously given.

Subpart H—Judicial Review

Subpart H contains rules applicable to judicial review of final agency orders. Section 16.247(a) sets forth the basic authority to seek judicial review. The provision is based on 14 CFR 13.235. Specific reference to section 519(b)(4) of the AAIA has been added. Section 16.247(b) identifies FAA decisions and actions under part 16 that the FAA does not consider to be judicially reviewable final agency orders.

Subpart I—Ex Parte Communications

The rule on *ex parte* communications is based on subpart J of the Rules of Practice in Air Safety Proceedings of the NTSB, 49 CFR Part 821, subpart J, modified to reflect the fact that FAA employees function as both parties and decisional employees in hearings conducted under subpart F of part 16.

Subpart J—Alternative Procedure for Certain Complaints Concerning Airport Rates and Charges

As explained above, subpart J of the proposed rule, containing special procedures for the handling of airport fee complaints by U.S. and foreign air carriers, was withdrawn on September 16, 1994 [59 FR 47568].

Regulatory Evaluation Summary

Introduction

This regulatory evaluation examines the costs and benefits of the final rule concerning Rules for Federally-Assisted Airport Proceedings. The rule establishes rules of practice for filing complaints and adjudicating compliance matters involving Federally-assisted airports. The rule is intended to expedite substantially the handling and disposition of airport-related complaints. Since the impacts of the changes are relatively minor this economic summary constitutes the analysis and no regulatory evaluation will be placed in the docket.

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs 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 effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade.

Costs And Benefits

This final rule adopts a new procedure for the filing, investigation, and adjudication of complaints against airports for violation of certain statutes administered by the FAA. The new procedures will substitute for existing procedures under 14 CFR part 13. There are no intended safety benefits that result from this rule. The intended advantages of the rule are in the form of increased cost effectiveness and timeliness in resolving complaints. The rule will use FAA resources better and result in modest cost savings.

About 30 investigations are initiated per year due to complaints filed with the FAA. Each investigation takes an average of 3 years before a ruling is issued. The typical investigation requires a field investigation, an initial review by the FAA's Office of Airports Safety and Standards, and a legal review by an attorney in the Office of Chief Counsel. A GS–12 (step 5) employee requires 30 hours to complete the field investigation, a GS–13 (step 5) requires 30 hours to complete the initial review, and a GS–14 (step 5) employee requires 20 hours to complete the legal review. The average cost per investigation is $3,100. (See Table 1.)

TABLE 1.—COST OF INVESTIGATIONS CURRENT AND UNDER NEW RULE

	Hours	Average grade	Yearly salary	Hourly rate	Loaded rate	Cost
CURRENT SITUATION						
Field investigation	35	GS–12	$50,388	$24.14	$31.39	$1,098.54
Initial review at HQ	30	GS–13	59,917	28.71	37.32	1,119.68
Attorney review at HQ	20	GS–14	70,804	33.93	44.10	882.08
Average cost per investigation						$3,100
Average annual number of investigations						30
Average annual cost of investigations						$93,009
NEW SITUATION						
Field	4	GS–12	$50,388	$24.14	$31.39	$125.55
Initial review at HQ	40	GS–13	59,917	28.71	37.32	1,492.90
Attorney review at HQ	20	GS–14	70,804	33.93	44.10	882.08
Average cost per investigation						$2,501
Average annual number of investigations						30
Average annual cost of investigations						$75,016
Savings						$17,993

This number assumes a 30-percent loaded hourly rate for fringe benefits. The annual cost of investigations is estimated to be $93,000.

Under the new rule, determinations will be made without the need for a field investigation. The FAA will be able to decide the merits of the case by looking at the record solely. The field investigation is expected to require 4 hours of the GS–12 (step 5) employee time, mostly to complete the proper forms; the initial review at headquarters is expected to require 40 hours of the GS–13 (step 5) employee's time, and the legal review is expected to remain at 20 hours of the GS–14 (step 5) employee's time. The average cost per investigation is estimated to be $2,500 and the annual cost of investigations will be $75,000 (Table 1). The final rule will result in an average cost savings of $18,000 per year on investigations. Furthermore the FAA estimates that instead of 3 years per investigation, each investigation will now take on average 1 year.

Conclusion

The FAA has determined that the final rule would have only moderate economic impacts on the industry, public, or government. The only measurable economic impact the FAA estimates is a slight cost savings to administer airport proceedings due to the utilization of government resources in a more efficient manner. The FAA finds that the proposed rule is cost-beneficial.

International Trade Impact Assessment

The Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. There should be no effect on aircraft manufacturers or operators (U.S. or foreign). Therefore, the FAA has determined that the proposed rule would neither have an effect on the sale of foreign aviation products nor services in the United States, nor would it have an effect on the sale of U.S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number or small entities. Based on the potential relief that the rule provides and the criteria contained in FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

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.

Paperwork Reduction Act

This final rule contains no information collection requirements that require approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*)

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Analysis, the FAA has determined that this final rule is not economically significant under Executive Order 12866. This final rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 111034, February 26, 1979) and Executive Order 12866. The FAA certifies that this final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

14 CFR Part 13

Enforcement procedures, Investigations, Penalties.

14 CFR Part 16

Enforcement procedures, Investigations.

The Amendments

Accordingly, the Federal Aviation Administration amends chapter I of title 14 of the Code of Federal Regulations as follows:

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

1. The authority citation for part 13 continues to read as follows:

Authority: 18 U.S.C. 6002; 49 U.S.C. 106(g), 5121–5124, 40113–40114, 44103–44106, 44702–44703, 44709–44710, 44713, 46101–46110, 46301–46316, 46501–46502, 46504–46507, 47106, 47111, 47122, 47306, 47531–47532.

2. Section 13.3 is amended by adding a new paragraph (d) to read as follows:

§ 13.3 Investigations (general).

* * * * *

(d) A complaint against the sponsor, proprietor, or operator of a Federally-assisted airport involving violations of the legal authorities listed in § 16.1 of this chapter shall be filed in accordance with the provisions of part 16 of this chapter, except in the case of complaints, investigations, and proceedings initiated before December 16, 1996, the effective date of part 16 of this chapter.

3. A new part 16 is added to subchapter B to read as follows:

PART 16—RULES OF PRACTICE FOR FEDERALLY-ASSISTED AIRPORT ENFORCEMENT PROCEEDINGS

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Authority: 49 U.S.C. 106(g), 322, 1110, 1111, 1115, 1116, 1718 (a) and (b), 1719, 1723, 1726, 1727, 40103(e), 40113, 40116, 44502(b), 46101, 46104, 46110, 47104, 47106(e), 47107, 47108, 47111(d), 47122, 47123–47125, 47151–47153, 48103.

Subpart A—General Provisions

§ 16.1 Applicability and description of part.

(a) *General.* The provisions of this part govern all proceedings involving Federally-assisted airports, except for disputes between U.S. and foreign air carriers and airport proprietors concerning the reasonableness of airport fees covered by 14 CFR part 302, whether the proceedings are instituted by order of the FAA or by filing with the FAA a complaint, under the following authorities:

(1) 49 U.S.C. 40103(e), prohibiting the grant of exclusive rights for the use of any landing area or air navigation facility on which Federal funds have been expended (formerly section 308 of the Federal Aviation Act of 1958, as amended).

(2) Requirements of the Anti-Head Tax Act, 49 U.S.C. 40116.

(3) The assurances contained in grant-in-aid agreements issued under the Federal Airport Act of 1946, 49 U.S.C. 1101 *et seq* (repealed 1970).

(4) The assurances contained in grant-in-aid agreements issued under the Airport and Airway Development Act of 1970, as amended, 49 U.S.C. 1701 *et seq*.

(5) The assurances contained in grant-in-aid agreements issued under the Airport and Airway Improvement Act of 1982 (AAIA), as amended, 49 U.S.C. 47101 *et seq.*, specifically section 511(a), 49 U.S.C. 47107(a) and (b).

(6) Section 505(d) of the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. 47113.

(7) Obligations contained in property deeds for property transferred pursuant to section 16 of the Federal Airport Act (49 U.S.C. 1115), section 23 of the Airport and Airway Development Act (49 U.S.C. 1723), or section 516 of the Airport and Airway Improvement Act (49 U.S.C. 47125).

(8) Obligations contained in property deeds for property transferred under the Surplus Property Act (49 U.S.C. 47151–47153).

(b) *Other agencies.* Where a grant assurance concerns a statute, executive

order, regulation, or other authority that provides an administrative process for the investigation or adjudication of complaints by a Federal agency other than the FAA, persons shall use the administrative process established by those authorities. Where a grant assurance concerns a statute, executive order, regulation, or other authority that enables a Federal agency other than the FAA to investigate, adjudicate, and enforce compliance under those authorities on its own initiative, the FAA may defer to that Federal agency.

(c) *Other enforcement.* If a complaint or action initiated by the FAA involves a violation of the 49 U.S.C. subtitle VII or FAA regulations, except as specified in paragraphs (a)(1) and (a)(2) of this section, the FAA may take investigative and enforcement action under 14 CFR part 13, ''Investigative and Enforcement Procedures.''

(d) *Effective date.* This part applies to a complaint filed with the FAA and to an investigation initiated by the FAA on or after December 16, 1996.

§ 16.3 Definitions.

Terms defined in the Acts are used as so defined. As used in this part:

Act means a statute listed in § 16.1 and any regulation, agreement, or document of conveyance issued or made under that statute.

Agency attorney means the Deputy Chief Counsel; the Assistant Chief Counsel and attorneys in the Airports/Environmental Law Division of the Office of the Chief Counsel; the Assistant Chief Counsel and attorneys in an FAA region or center who represent the FAA during the investigation of a complaint or at a hearing on a complaint, and who prosecute on behalf of the FAA, as appropriate. An agency attorney shall not include the Chief Counsel; the Assistant Chief Counsel for Litigation, or any attorney on the staff of the Assistant Chief Counsel for Litigation, who advises the Associate Administrator regarding an initial decision of the hearing officer or any appeal to the Associate Administrator or who is supervised in that action by a person who provides such advice in an action covered by this part.

Agency employee means any employee of the U.S. Department of Transportation.

Associate Administrator means the Associate Administrator for Airports or a designee.

Complainant means the person submitting a complaint.

Complaint means a written document meeting the requirements of this part filed with the FAA by a person directly and substantially affected by anything allegedly done or omitted to be done by any person in contravention of any provision of any Act, as defined in this section, as to matters within the jurisdiction of the Administrator.

Director means the Director of the Office of Airport Safety and Standards.

Director's determination means the initial determination made by the Director following an investigation, which is a non-final agency decision.

File means to submit written documents to the FAA for inclusion in the Part 16 Airport Proceedings Docket or to a hearing officer.

Final decision and order means a final agency decision that disposes of a complaint or determines a respondent's compliance with any Act, as defined in this section, and directs appropriate action.

Hearing officer means an attorney designated by the FAA in a hearing order to serve as a hearing officer in a hearing under this part. The following are not designated as hearing officers: the Chief Counsel and Deputy Chief Counsel; the Assistant Chief Counsel and attorneys in the FAA region or center in which the noncompliance has allegedly occurred or is occurring; the Assistant Chief Counsel and attorneys in the Airports and Environmental Law Division of the FAA Office of the Chief Counsel; and the Assistant Chief Counsel and attorneys in the Litigation Division of the FAA Office of Chief Counsel.

Initial decision means a decision made by the hearing officer in a hearing under subpart F of this part.

Mail means U.S. first class mail; U.S. certified mail; and U.S. express mail.

Noncompliance means anything done or omitted to be done by any person in contravention of any provision of any Act, as defined in this section, as to matters within the jurisdiction of the Administrator.

Party means the complainant(s) and the respondent(s) named in the complaint and, after an initial determination providing an opportunity for hearing is issued under § 16.31 and subpart E of this part, the agency.

Person in addition to its meaning under 49 U.S.C. 40102(a)(33), includes a public agency as defined in 49 U.S.C. 47102(a)(15).

Personal delivery means hand delivery or overnight express delivery service.

Respondent means any person named in a complaint as a person responsible for noncompliance.

Sponsor means:

(1) Any public agency which, either individually or jointly with one or more other public agencies, has received Federal financial assistance for airport development or planning under the Federal Airport Act, Airport and Airway Development Act or Airport and Airway Improvement Act;

(2) Any private owner of a public-use airport that has received financial assistance from the FAA for such airport; and

(3) Any person to whom the Federal Government has conveyed property for airport purposes under section 13(g) of the Surplus Property Act of 1944, as amended.

§ 16.5 Separation of functions.

(a) Proceedings under this part, including hearings under subpart F of this part, will be prosecuted by an agency attorney.

(b) After issuance of an initial determination in which the FAA provides the opportunity for a hearing, an agency employee engaged in the performance of investigative or prosecutorial functions in a proceeding under this part will not, in that case or a factually related case, participate or give advice in an initial decision by the hearing officer, or a final decision by the Associate Administrator or designee on written appeal, and will not, except as counsel or as witness in the public proceedings, engage in any substantive communication regarding that case or a related case with the hearing officer, the Associate Administrator on written appeal, or agency employees advising those officials in that capacity.

(c) The Chief Counsel, the Assistant Chief Counsel for Litigation, or an attorney on the staff of the Assistant Chief Counsel for Litigation advises the Associate Administrator regarding an initial decision, an appeal, or a final decision regarding any case brought under this part.

Subpart B—General Rules Applicable to Complaints, Proceedings Initiated by the FAA, and Appeals

§ 16.11 Expedition and other modification of process.

(a) Under the authority of 49 U.S.C. 40113 and 47121, the Director may conduct investigations, issue orders, and take such other actions as are necessary to fulfill the purposes of this part, including the extension of any time period prescribed where necessary or appropriate for a fair and complete hearing of matters before the agency.

(b) Notwithstanding any other provision of this part, upon finding that circumstances require expedited handling of a particular case or controversy, the Director may issue an

order directing any of the following prior to the issuance of the Director's determination:

(1) Shortening the time period for any action under this part consistent with due process;

(2) If other adequate opportunity to respond to pleadings is available, eliminating the reply, rebuttal, or other actions prescribed by this part;

(3) Designating alternative methods of service; or

(4) Directing such other measures as may be required.

§ 16.13 Filing of documents.

Except as otherwise provided in this part, documents shall be filed with the FAA during a proceeding under this part as follows:

(a) *Filing address.* Documents to be filed with the FAA shall be filed with the Office of the Chief Counsel, Attention: FAA Part 16 Airport Proceedings Docket, AGC–610, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC, 20591. Documents to be filed with a hearing officer shall be filed at the address stated in the hearing order.

(b) *Date and method of filing.* Filing of any document shall be by personal delivery or mail as defined in this part, or by facsimile (when confirmed by filing on the same date by one of the foregoing methods). Unless the date is shown to be inaccurate, documents to be filed with the FAA shall be deemed to be filed on the date of personal delivery, on the mailing date shown on the certificate of service, on the date shown on the postmark if there is no certificate of service, on the send date shown on the facsimile (provided filing has been confirmed through one of the foregoing methods), or on the mailing date shown by other evidence if there is no certificate of service and no postmark.

(c) *Number of copies.* Unless otherwise specified, an executed original and three copies of each document shall be filed with the FAA Part 16 Airport Proceedings Docket. Copies need not be signed, but the name of the person signing the original shall be shown. If a hearing order has been issued in the case, one of the three copies shall be filed with the hearing officer. If filing by facsimile, the facsimile copy does not constitute one of the copies required under this section.

(d) *Form.* Documents filed with the FAA shall be typewritten or legibly printed. In the case of docketed proceedings, the document shall include the docket number of the proceeding on the front page.

(e) *Signing of documents and other papers.* The original of every document filed shall be signed by the person filing it or the person's duly authorized representative. The signature shall serve as a certification that the signer has read the document and, based on reasonable inquiry and to the best of the signer's knowledge, information, and belief, the document is—

(1) Consistent with this part;

(2) Warranted by existing law or that a good faith argument exists for extension, modification, or reversal of existing law; and

(3) Not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the administrative process.

(f) *Designation of person to receive service.* The initial document filed by any person shall state on the first page the name, post office address, telephone number, and facsimile number, if any, of the person(s) to be served with documents in the proceeding. If any of these items change during the proceeding, the person shall promptly file notice of the change with the FAA Part 16 Airport Proceedings Docket and the hearing officer and shall serve the notice on all parties.

(g) *Docket numbers.* Each submission identified as a complaint under this part by the submitting person will be assigned a docket number.

§ 16.15 Service of documents on the parties and the agency.

Except as otherwise provided in this part, documents shall be served as follows:

(a) *Who must be served.* Copies of all documents filed with the FAA Part 16 Airport Proceedings Docket shall be served by the persons filing them on all parties to the proceeding. A certificate of service shall accompany all documents when they are tendered for filing and shall certify concurrent service on the FAA and all parties. Certificates of service shall be in substantially the following form:

I hereby certify that I have this day served the foregoing [name of document] on the following persons at the following addresses and facsimile numbers (if also served by facsimile) by [specify method of service]:

[list persons, addresses, facsimile numbers]

Dated this _____ day of _____, 19____.

[signature], for [party]

(b) *Method of service.* Except as otherwise agreed by the parties and the hearing officer, the method of service is the same as set forth in § 16.13(b) for filing documents.

(c) *Where service shall be made.* Service shall be made to the persons identified in accordance with § 16.13(f). If no such person has been designated, service shall be made on the party.

(d) *Presumption of service.* There shall be a presumption of lawful service—

(1) When acknowledgment of receipt is by a person who customarily or in the ordinary course of business receives mail at the address of the party or of the person designated under § 16.13(f); or

(2) When a properly addressed envelope, sent to the most current address submitted under § 16.13(f), has been returned as undeliverable, unclaimed, or refused.

(e) *Date of service.* The date of service shall be determined in the same manner as the filing date under § 16.13(b).

§ 16.17 Computation of time.

This section applies to any period of time prescribed or allowed by this part, by notice or order of the hearing officer, or by an applicable statute.

(a) The date of an act, event, or default, after which a designated time period begins to run, is not included in a computation of time under this part.

(b) The last day of a time period is included in a computation of time unless it is a Saturday, Sunday, or legal holiday for the FAA, in which case, the time period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(c) Whenever a party has the right or is required to do some act within a prescribed period after service of a document upon the party, and the document is served on the party by mail, 3 days shall be added to the prescribed period.

§ 16.19 Motions.

(a) *General.* An application for an order or ruling not otherwise specifically provided for in this part shall be by motion. Unless otherwise ordered by the agency, the filing of a motion will not stay the date that any action is permitted or required by this part.

(b) *Form and contents.* Unless made during a hearing, motions shall be made in writing, shall state with particularity the relief sought and the grounds for the relief sought, and shall be accompanied by affidavits or other evidence relied upon. Motions introduced during hearings may be made orally on the record, unless the hearing officer directs otherwise.

(c) *Answers to motions.* Except as otherwise provided in this part, or except when a motion is made during a hearing, any party may file an answer in support of or in opposition to a motion, accompanied by affidavits or other evidence relied upon, provided that the

answer to the motion is filed within 10 days after the motion has been served upon the person answering, or any other period set by the hearing officer. Where a motion is made during a hearing, the answer and the ruling thereon may be made at the hearing, or orally or in writing within the time set by the hearing officer.

Subpart C—Special Rules Applicable to Complaints

§ 16.21 Pre-complaint resolution.

(a) Prior to filing a complaint under this part, a person directly and substantially affected by the alleged noncompliance shall initiate and engage in good faith efforts to resolve the disputed matter informally with those individuals or entities believed responsible for the noncompliance. These efforts at informal resolution may include, without limitation, at the parties' expense, mediation, arbitration, or the use of a dispute resolution board, or other form of third party assistance. The FAA Airports District Office, FAA Airports Field Office, or FAA Regional Airports Division responsible for administrating financial assistance to the respondent airport proprietor, will be available upon request to assist the parties with informal resolution.

(b) A complaint under this part will not be considered unless the person or authorized representative filing the complaint certifies that substantial and reasonable good faith efforts to resolve the disputed matter informally prior to filing the complaint have been made and that there appears no reasonable prospect for timely resolution of the dispute. This certification shall include a brief description of the party's efforts to obtain informal resolution but shall not include information on monetary or other settlement offers made but not agreed upon in writing by all parties.

§ 16.23 Complaints, answers, replies, rebuttals, and other documents.

(a) A person directly and substantially affected by any alleged noncompliance may file a complaint with the Administrator. A person doing business with an airport and paying fees or rentals to the airport shall be considered directly and substantially affected by alleged revenue diversion as defined in 49 U.S.C. 47107(b).

(b) Complaints filed under this part shall—

(1) State the name and address of each person who is the subject of the complaint and, with respect to each person, the specific provisions of each Act that the complainant believes were violated;

(2) Be served, in accordance with § 16.15, along with all documents then available in the exercise of reasonable diligence, offered in support of the complaint, upon all persons named in the complaint as persons responsible for the alleged action(s) or omission(s) upon which the complaint is based;

(3) Provide a concise but complete statement of the facts relied upon to substantiate each allegation; and

(4) Describe how the complainant was directly and substantially affected by the things done or omitted to be done by the respondents.

(c) Unless the complaint is dismissed pursuant to § 16.25 or § 16.27, the FAA notifies the complainant and respondents in writing within 20 days after the date the FAA receives the complaint that the complaint has been docketed and that respondents are required to file an answer within 20 days of the date of service of the notification.

(d) The respondent shall file an answer within 20 days of the date of service of the FAA notification.

(e) The complainant may file a reply within 10 days of the date of service of the answer.

(f) The respondent may file a rebuttal within 10 days of the date of service of the complainant's reply.

(g) The answer, reply, and rebuttal shall, like the complaint, be accompanied by supporting documentation upon which the parties rely.

(h) The answer shall deny or admit the allegations made in the complaint or state that the person filing the document is without sufficient knowledge or information to admit or deny an allegation, and shall assert any affirmative defense.

(i) The answer, reply, and rebuttal shall each contain a concise but complete statement of the facts relied upon to substantiate the answers, admissions, denials, or averments made.

(j) The respondent's answer may include a motion to dismiss the complaint, or any portion thereof, with a supporting memorandum of points and authorities. If a motion to dismiss is filed, the complainant may respond as part of its reply notwithstanding the 10-day time limit for answers to motions in § 16.19(c).

§ 16.25 Dismissals.

Within 20 days after the receipt of the complaint, the Director will dismiss a complaint, or any claim made in a complaint, with prejudice if:

(a) It appears on its face to be outside the jurisdiction of the Administrator under the Acts listed in § 16.1;

(b) On its face it does not state a claim that warrants an investigation or further action by the FAA; or

(c) The complainant lacks standing to file a complaint under §§ 16.3 and 16.23. The Director's dismissal will include the reasons for the dismissal.

§ 16.27 Incomplete complaints.

If a complaint is not dismissed pursuant to § 16.25 of this part, but is deficient as to one or more of the requirements set forth in § 16.21 or § 16.23(b), the Director will dismiss the complaint within 20 days after receiving it. Dismissal will be without prejudice to the refiling of the complaint after amendment to correct the deficiency. The Director's dismissal will include the reasons for the dismissal.

§ 16.29 Investigations.

(a) If, based on the pleadings, there appears to be a reasonable basis for further investigation, the FAA investigates the subject matter of the complaint.

(b) The investigation may include one or more of the following, at the sole discretion of the FAA:

(1) A review of the written submissions or pleadings of the parties, as supplemented by any informal investigation the FAA considers necessary and by additional information furnished by the parties at FAA request. In rendering its initial determination, the FAA may rely entirely on the complaint and the responsive pleadings provided under this subpart. Each party shall file documents that it considers sufficient to present all relevant facts and argument necessary for the FAA to determine whether the sponsor is in compliance.

(2) Obtaining additional oral and documentary evidence by use of the agency's authority to compel production of such evidence under section 313 Aviation Act, 49 U.S.C. 40113 and 46104, and section 519 of the Airport and Airway Improvement Act, 49 U.S.C. 47122. The Administrator's statutory authority to issue compulsory process has been delegated to the Chief Counsel, the Deputy Chief Counsel, the Assistant Chief Counsel for Airports and Environmental Law, and each Assistant Chief Counsel for a region or center.

(3) Conducting or requiring that a sponsor conduct an audit of airport financial records and transactions as provided in 49 U.S.C. 47107 and 47121.

§ 16.31 Director's determinations after investigations.

(a) After consideration of the pleadings and other information obtained by the FAA after investigation,

the Director will render an initial determination and provide it to each party by certified mail within 120 days of the date the last pleading specified in § 16.23 was due.

(b) The Director's determination will set forth a concise explanation of the factual and legal basis for the Director's determination on each claim made by the complainant.

(c) A party adversely affected by the Director's determination may appeal the initial determination to the Associate Administrator as provided in § 16.33.

(d) If the Director's determination finds the respondent in noncompliance and proposes the issuance of a compliance order, the initial determination will include notice of opportunity for a hearing under subpart F of this part, if such an opportunity is provided by the FAA. The respondent may elect or waive a hearing as provided in subpart E of this part.

§ 16.33 Final decisions without hearing.

(a) The Associate Administrator will issue a final decision on appeal from the Director's determination, without a hearing, where—

(1) The complaint is dismissed after investigation;

(2) A hearing is not required by statute and is not otherwise made available by the FAA; or

(3) The FAA provides opportunity for a hearing to the respondent and the respondent waives the opportunity for a hearing as provided in subpart E of this part.

(b) In the cases described in paragraph (a) of this section, a party adversely affected by the Director's determination may file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination.

(c) A reply to an appeal may be filed with the Associate Administrator within 20 days after the date of service of the appeal.

(d) The Associate Administrator will issue a final decision and order within 60 days after the due date of the reply.

(e) If no appeal is filed within the time period specified in paragraph (b) of this section, the Director's determination becomes the final decision and order of the FAA without further action. A Director's determination that becomes final because there is no administrative appeal is not judicially reviewable.

Subpart D—Special Rules Applicable to Proceedings Initiated by the FAA

§ 16.101 Basis for the initiation of agency action.

The FAA may initiate its own investigation of any matter within the applicability of this part without having received a complaint. The investigation may include, without limitation, any of the actions described in § 16.29(b).

§ 16.103 Notice of investigation.

Following the initiation of an investigation under § 16.101, the FAA sends a notice to the person(s) subject to investigation. The notice will set forth the areas of the agency's concern and the reasons therefor; request a response to the notice within 30 days of the date of service; and inform the respondent that the FAA will, in its discretion, invite good faith efforts to resolve the matter.

§ 16.105 Failure to resolve informally.

If the matters addressed in the FAA notices are not resolved informally, the FAA may issue a Director's determination under § 16.31.

Subpart E—Proposed Orders of Compliance

§ 16.109 Orders terminating eligibility for grants, cease and desist orders, and other compliance orders.

This section applies to initial determinations issued under § 16.31 that provide the opportunity for a hearing.

(a) The agency will provide the opportunity for a hearing if, in the Director's determination, the agency proposes to issue an order terminating eligibility for grants pursuant to 49 U.S.C. 47106(e) and 47111(d), an order suspending the payment of grant funds, an order withholding approval of any new application to impose a passenger facility charge pursuant to section 112 of the Federal Aviation Administration Act of 1994, 49 U.S.C. 47111(e), a cease and desist order, an order directing the refund of fees unlawfully collected, or any other compliance order issued by the Administrator to carry out the provisions of the Acts, and required to be issued after notice and opportunity for a hearing. In cases in which a hearing is not required by statute, the FAA may provide opportunity for a hearing at its discretion.

(b) In a case in which the agency provides the opportunity for a hearing, the Director's determination issued under § 16.31 will include a statement of the availability of a hearing under subpart F of this part.

(c) Within 20 days after service of a Director's determination under § 16.31 and paragraph (b) of this section, a person subject to the proposed compliance order may—

(1) Request a hearing under subpart F of this part;

(2) Waive hearing and appeal the Director's determination in writing to the Associate Administrator, as provided in § 16.33;

(3) File, jointly with a complainant, a motion to withdraw the complaint and to dismiss the proposed compliance action; or

(4) Submit, jointly with the agency attorney, a proposed consent order under § 16.243(e).

(d) If the respondent fails to request a hearing or to file an appeal in writing within the time periods provided in paragraph (c) of this section, the Director's determination becomes final.

Subpart F—Hearings

§ 16.201 Notice and order of hearing.

(a) If a respondent is provided the opportunity for hearing in an initial determination and does not waive hearing, the Deputy Chief Counsel within 10 days after the respondent elects a hearing will issue and serve on the respondent and complainant a hearing order. The hearing order will set forth:

(1) The allegations in the complaint, or notice of investigation, and the chronology and results of the investigation preliminary to the hearing;

(2) The relevant statutory, judicial, regulatory, and other authorities;

(3) The issues to be decided;

(4) Such rules of procedure as may be necessary to supplement the provisions of this part;

(5) The name and address of the person designated as hearing officer, and the assignment of authority to the hearing officer to conduct the hearing in accordance with the procedures set forth in this part; and

(6) The date by which the hearing officer is directed to issue an initial decision.

(b) Where there are no genuine issues of material fact requiring oral examination of witnesses, the hearing order may contain a direction to the hearing officer to conduct a hearing by submission of briefs and oral argument without the presentation of testimony or other evidence.

§ 16.202 Powers of a hearing officer.

In accordance with the rules of this subpart, a hearing officer may:

(a) Give notice of, and hold, prehearing conferences and hearings;

(b) Administer oaths and affirmations;

(c) Issue subpoenas authorized by law and issue notices of deposition requested by the parties;

(d) Limit the frequency and extent of discovery;

(e) Rule on offers of proof;

(f) Receive relevant and material evidence;

(g) Regulate the course of the hearing in accordance with the rules of this part to avoid unnecessary and duplicative proceedings in the interest of prompt and fair resolution of the matters at issue;

(h) Hold conferences to settle or to simplify the issues by consent of the parties;

(i) Dispose of procedural motions and requests;

(j) Examine witnesses; and

(k) Make findings of fact and conclusions of law, and issue an initial decision.

§ 16.203 Appearances, parties, and rights of parties.

(a) *Appearances.* Any party may appear and be heard in person.

(1) Any party may be accompanied, represented, or advised by an attorney licensed by a State, the District of Columbia, or a territory of the United States to practice law or appear before the courts of that State or territory, or by another duly authorized representative.

(2) An attorney, or other duly authorized representative, who represents a party shall file a notice of appearance in accordance with § 16.13.

(b) *Parties and agency participation.*

(1) The parties to the hearing are the respondent (s) named in the hearing order, the complainant(s), and the agency.

(2) Unless otherwise specified in the hearing order, the agency attorney will serve as prosecutor for the agency from the date of issuance of the Director's determination providing an opportunity for hearing.

§ 16.207 Intervention and other participation.

(a) A person may submit a motion for leave to intervene as a party. Except for good cause shown, a motion for leave to intervene shall be submitted not later than 10 days after the notice of hearing and hearing order.

(b) If the hearing officer finds that intervention will not unduly broaden the issues or delay the proceedings and, if the person has a property or financial interest that may not be addressed adequately by the parties, the hearing officer may grant a motion for leave to intervene. The hearing officer may determine the extent to which an intervenor may participate in the proceedings.

(c) Other persons may petition the hearing officer for leave to participate in the hearing. Participation is limited to the filing of post-hearing briefs and reply to the hearing officer and the Associate Administrator. Such briefs shall be filed and served on all parties in the same manner as the parties' post hearing briefs are filed.

(d) Participation under this section is at the discretion of the FAA, and no decision permitting participation shall be deemed to constitute an expression by the FAA that the participant has such a substantial interest in the proceeding as would entitle it to judicial review of such decision.

§ 16.209 Extension of time.

(a) *Extension by oral agreement.* The parties may agree to extend for a reasonable period of time for filing a document under this part. If the parties agree, the hearing officer shall grant one extension of time to each party. The party seeking the extension of time shall submit a draft order to the hearing officer to be signed by the hearing officer and filed with the hearing docket. The hearing officer may grant additional oral requests for an extension of time where the parties agree to the extension.

(b) *Extension by motion.* A party shall file a written motion for an extension of time with the hearing officer not later than 7 days before the document is due unless good cause for the late filing is shown. A party filing a written motion for an extension of time shall serve a copy of the motion on each party.

(c) *Failure to rule.* If the hearing officer fails to rule on a written motion for an extension of time by the date the document was due, the motion for an extension of time is deemed denied.

(d) *Effect on time limits.* In a hearing required by section 519(b) of the Airport and Airways Improvement Act, as amended in 1987, 49 U.S.C. 47106(e) and 47111(d), the due date for the hearing officer's initial decision and for the final agency decision are extended by the length of the extension granted by the hearing officer only if the hearing officer grants an extension of time as a result of an agreement by the parties as specified in paragraph (a) of this section or, if the hearing officer grants an extension of time as a result of the sponsor's failure to adhere to the hearing schedule. In any other hearing, an extension of time granted by the hearing officer for any reason extends the due date for the hearing officer's initial decision and for the final agency decision by the length of time of the hearing officer's decision.

16.211 Prehearing conference.

(a) *Prehearing conference notice.* The hearing officer schedules a prehearing conference and serves a prehearing conference notice on the parties promptly after being designated as a hearing officer.

(1) The prehearing conference notice specifies the date, time, place, and manner (in person or by telephone) of the prehearing conference.

(2) The prehearing conference notice may direct the parties to exchange proposed witness lists, requests for evidence and the production of documents in the possession of another party, responses to interrogatories, admissions, proposed procedural schedules, and proposed stipulations before the date of the prehearing conference.

(b) *The prehearing conference.* The prehearing conference is conducted by telephone or in person, at the hearing officer's discretion. The prehearing conference addresses matters raised in the prehearing conference notice and such other matters as the hearing officer determines will assist in a prompt, full and fair hearing of the issues.

(c) *Prehearing conference report.* At the close of the prehearing conference, the hearing officer rules on any requests for evidence and the production of documents in the possession of other parties, responses to interrogatories, and admissions; on any requests for depositions; on any proposed stipulations; and on any pending applications for subpoenas as permitted by § 16.219. In addition, the hearing officer establishes the schedule, which shall provide for the issuance of an initial decision not later than 110 days after issuance of the Director's determination order unless otherwise provided in the hearing order.

§ 16.213 Discovery.

(a) Discovery is limited to requests for admissions, requests for production of documents, interrogatories, and depositions as authorized by § 16.215.

(b) The hearing officer shall limit the frequency and extent of discovery permitted by this section if a party shows that—

(1) The information requested is cumulative or repetitious;

(2) The information requested may be obtained from another less burdensome and more convenient source;

(3) The party requesting the information has had ample opportunity to obtain the information through other

discovery methods permitted under this section; or

(4) The method or scope of discovery requested by the party is unduly burdensome or expensive.

§ 16.215 Depositions.

(a) *General.* For good cause shown, the hearing officer may order that the testimony of a witness may be taken by deposition and that the witness produce documentary evidence in connection with such testimony. Generally, an order to take the deposition of a witness is entered only if:

(1) The person whose deposition is to be taken would be unavailable at the hearing;

(2) The deposition is deemed necessary to perpetuate the testimony of the witness; or

(3) The taking of the deposition is necessary to prevent undue and excessive expense to a party and will not result in undue burden to other parties or in undue delay.

(b) *Application for deposition.* Any party desiring to take the deposition of a witness shall make application therefor to the hearing officer in writing, with a copy of the application served on each party. The application shall include:

(1) The name and residence of the witness;

(2) The time and place for the taking of the proposed deposition;

(3) The reasons why such deposition should be taken; and

(4) A general description of the matters concerning which the witness will be asked to testify.

(c) *Order authorizing deposition.* If good cause is shown, the hearing officer, in his or her discretion, issues an order authorizing the deposition and specifying the name of the witness to be deposed, the location and time of the deposition and the general scope and subject matter of the testimony to be taken.

(d) *Procedures for deposition.*

(1) Witnesses whose testimony is taken by deposition shall be sworn or shall affirm before any questions are put to them. Each question propounded shall be recorded and the answers of the witness transcribed verbatim.

(2) Objections to questions or evidence shall be recorded in the transcript of the deposition. The interposing of an objection shall not relieve the witness of the obligation to answer questions, except where the answer would violate a privilege.

(3) The written transcript shall be subscribed by the witness, unless the parties by stipulation waive the signing, or the witness is ill, cannot be found, or refuses to sign. The reporter shall note the reason for failure to sign.

§ 16.217 Witnesses.

(a) Each party may designate as a witness any person who is able and willing to give testimony that is relevant and material to the issues in the hearing case, subject to the limitation set forth in paragraph (b) of this section.

(b) The hearing officer may exclude testimony of witnesses that would be irrelevant, immaterial, or unduly repetitious.

(c) Any witness may be accompanied by counsel. Counsel representing a nonparty witness has no right to examine the witness or otherwise participate in the development of testimony.

§ 16.219 Subpoenas.

(a) *Request for subpoena.* A party may apply to the hearing officer, within the time specified for such applications in the prehearing conference report, for a subpoena to compel testimony at a hearing or to require the production of documents only from the following persons:

(1) Another party;

(2) An officer, employee, or agent of another party;

(3) Any other person named in the complaint as participating in or benefiting from the actions of the respondent alleged to have violated any Act;

(4) An officer, employee, or agent of any other person named in the complaint as participating in or benefiting from the actions of the respondent alleged to have violated any Act.

(b) *Issuance and service of subpoena.*

(1) The hearing officer issues the subpoena if the hearing officer determines that the evidence to be obtained by the subpoena is relevant and material to the resolution of the issues in the case.

(2) Subpoenas shall be served by personal service, or upon an agent designated in writing for the purpose, or by certified mail, return receipt addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

(3) A subpoena issued under this part is effective throughout the United States or any territory or possession thereof.

(c) *Motions to quash or modify subpoena.*

(1) A party or any person upon whom a subpoena has been served may file a motion to quash or modify the subpoena with the hearing officer at or before the time specified in the subpoena for the filing of such motions. The applicant shall describe in detail the basis for the application to quash or modify the subpoena including, but not limited to, a statement that the testimony, document, or tangible evidence is not relevant to the proceeding, that the subpoena is not reasonably tailored to the scope of the proceeding, or that the subpoena is unreasonable and oppressive.

(2) A motion to quash or modify the subpoena stays the effect of the subpoena pending a decision by the hearing officer on the motion.

§ 16.221 Witness fees.

(a) The party on whose behalf a witness appears is responsible for paying any witness fees and mileage expenses.

(b) Except for employees of the United States summoned to testify as to matters related to their public employment, witnesses summoned by subpoena shall be paid the same fees and mileage expenses as are paid to a witness in a court of the United States in comparable circumstances.

§ 16.223 Evidence.

(a) *General.* A party may submit direct and rebuttal evidence in accordance with this section.

(b) *Requirement for written testimony and evidence.* Except in the case of evidence obtained by subpoena, or in the case of a special ruling by the hearing officer to admit oral testimony, a party's direct and rebuttal evidence shall be submitted in written form in advance of the oral hearing pursuant to the schedule established in the hearing officer's prehearing conference report. Written direct and rebuttal fact testimony shall be certified by the witness as true and correct. Subject to the same exception (for evidence obtained by subpoena or subject to a special ruling by the hearing officer), oral examination of a party's own witness is limited to certification of the accuracy of written evidence, including correction and updating, if necessary, and reexamination following cross-examination by other parties.

(c) *Subpoenaed testimony.* Testimony of witnesses appearing under subpoena may be obtained orally.

(d) *Cross-examination.* A party may conduct cross-examination that may be required for disclosure of the facts, subject to control by the hearing officer for fairness, expedition and exclusion of extraneous matters.

(e) *Hearsay evidence.* Hearsay evidence is admissible in proceedings governed by this part. The fact that

evidence is hearsay goes to the weight of evidence and does not affect its admissibility.

(f) *Admission of evidence.* The hearing officer admits evidence introduced by a party in support of its case in accordance with this section, but may exclude irrelevant, immaterial, or unduly repetitious evidence.

(g) *Expert or opinion witnesses.* An employee of the FAA or DOT may not be called as an expert or opinion witness for any party other than the agency except as provided in Department of Transportation regulations at 49 CFR part 9.

§ 16.225 Public disclosure of evidence.

(a) Except as provided in this section, the hearing shall be open to the public.

(b) The hearing officer may order that any information contained in the record be withheld from public disclosure. Any person may object to disclosure of information in the record by filing a written motion to withhold specific information with the hearing officer. The person shall state specific grounds for nondisclosure in the motion.

(c) The hearing officer shall grant the motion to withhold information from public disclosure if the hearing officer determines that disclosure would be in violation of the Privacy Act, would reveal trade secrets or privileged or confidential commercial or financial information, or is otherwise prohibited by law.

§ 16.227 Standard of proof.

The hearing officer shall issue an initial decision or shall rule in a party's favor only if the decision or ruling is supported by, and in accordance with, reliable, probative, and substantial evidence contained in the record and is in accordance with law.

§ 16.229 Burden of proof.

(a) The burden of proof of noncompliance with an Act or any regulation, order, agreement or document of conveyance issued under the authority of an Act is on the agency.

(b) Except as otherwise provided by statute or rule, the proponent of a motion, request, or order has the burden of proof.

(c) A party who has asserted an affirmative defense has the burden of proving the affirmative defense.

§ 16.231 Offer of proof.

A party whose evidence has been excluded by a ruling of the hearing officer may offer the evidence on the record when filing an appeal.

§ 16.233 Record.

(a) *Exclusive record.* The transcript of all testimony in the hearing, all exhibits received into evidence, all motions, applications requests and rulings, and all documents included in the hearing record shall constitute the exclusive record for decision in the proceedings and the basis for the issuance of any orders.

(b) *Examination and copy of record.* Any interested person may examine the record at the Part 16 Airport Proceedings Docket, AGC–600, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Any person may have a copy of the record after payment of reasonable costs for search and reproduction of the record.

§ 16.235 Argument before the hearing officer.

(a) *Argument during the hearing.* During the hearing, the hearing officer shall give the parties reasonable opportunity to present oral argument on the record supporting or opposing motions, objections, and rulings if the parties request an opportunity for argument. The hearing officer may direct written argument during the hearing if the hearing officer finds that submission of written arguments would not delay the hearing.

(b) *Posthearing briefs.* The hearing officer may request or permit the parties to submit posthearing briefs. The hearing officer may provide for the filing of simultaneous reply briefs as well, if such filing will not unduly delay the issuance of the hearing officer's initial decision. Posthearing briefs shall include proposed findings of fact and conclusions of law; exceptions to rulings of the hearing officer; references to the record in support of the findings of fact; and supporting arguments for the proposed findings, proposed conclusions, and exceptions.

§ 16.237 Waiver of procedures.

(a) The hearing officer shall waive such procedural steps as all parties to the hearing agree to waive before issuance of an initial decision.

(b) Consent to a waiver of any procedural step bars the raising of this issue on appeal.

(c) The parties may not by consent waive the obligation of the hearing officer to enter an initial decision on the record.

Subpart G—Initial Decisions, Orders and Appeals

§ 16.241 Initial decisions, order, and appeals.

(a) The hearing officer shall issue an initial decision based on the record developed during the proceeding and shall send the initial decision to the parties not later than 110 days after the Director's determination unless otherwise provided in the hearing order.

(b) Each party adversely affected by the hearing officer's initial decision may file an appeal with the Associate Administrator within 15 days of the date the initial decision is issued. Each party may file a reply to an appeal within 10 days after it is served on the party. Filing and service of appeals and replies shall be by personal delivery.

(c) If an appeal is filed, the Associate Administrator reviews the entire record and issues a final agency decision and order within 30 days of the due date of the reply. If no appeal is filed, the Associate Administrator may take review of the case on his or her own motion. If the Associate Administrator finds that the respondent is not in compliance with any Act or any regulation, agreement, or document of conveyance issued or made under such Act, the final agency order includes a statement of corrective action, if appropriate, and identifies sanctions for continued noncompliance.

(d) If no appeal is filed, and the Associate Administrator does not take review of the initial decision on the Associate Administrator's own motion, the initial decision shall take effect as the final agency decision and order on the sixteenth day after the actual date the initial decision is issued.

(e) The failure to file an appeal is deemed a waiver of any rights to seek judicial review of an initial decision that becomes a final agency decision by operation of paragraph (d) of this section.

(f) If the Associate Administrator takes review on the Associate Administrator's own motion, the Associate Administrator issues a notice of review by the sixteenth day after the actual date the initial decision is issued.

(1) The notice sets forth the specific findings of fact and conclusions of law in the initial decision that are subject to review by the Associate Administrator.

(2) Parties may file one brief on review to the Associate Administrator or rely on their posthearing briefs to the hearing officer. Briefs on review shall be filed not later than 10 days after service of the notice of review. Filing and service of briefs on review shall be by personal delivery.

(3) The Associate Administrator issues a final agency decision and order within 30 days of the due date of the briefs on review. If the Associate Administrator finds that the respondent is not in compliance with any Act or any regulation, agreement or document of conveyance issued under such Act, the final agency order includes a statement of corrective action, if appropriate, and identifies sanctions for continued noncompliance.

§ 16.243 Consent orders.

(a) The agency attorney and the respondents may agree at any time before the issuance of a final decision and order to dispose of the case by issuance of a consent order. Good faith efforts to resolve a complaint through issuance of a consent order may continue throughout the administrative process. Except as provided in § 16.209, such efforts may not serve as the basis for extensions of the times set forth in this part.

(b) A proposal for a consent order, specified in paragraph (a) of this section, shall include:

(1) A proposed consent order;

(2) An admission of all jurisdictional facts;

(3) An express waiver of the right to further procedural steps and of all rights of judicial review; and

(4) The hearing order, if issued, and an acknowledgment that the hearing order may be used to construe the terms of the consent order.

(c) If the issuance of a consent order has been agreed upon by all parties to the hearing, the proposed consent order shall be filed with the hearing officer, along with a draft order adopting the consent decree and dismissing the case, for the hearing officer's adoption.

(d) The deadline for the hearing officer's initial decision and the final agency decision is extended by the amount of days elapsed between the filing of the proposed consent order with the hearing officer and the issuance of the hearing officer's order continuing the hearing.

(e) If the agency attorney and sponsor agree to dispose of a case by issuance of a consent order before the FAA issues a hearing order, the proposal for a consent order is submitted jointly to the official authorized to issue a hearing order, together with a request to adopt the consent order and dismiss the case. The official authorized to issue the hearing order issues the consent order as an order of the FAA and terminates the proceeding.

Subpart H—Judicial Review

§ 16.247 Judicial review of a final decision and order.

(a) A person may seek judicial review, in a United States Court of Appeals, of a final decision and order of the Associate Administrator as provided in 49 U.S.C. 46110 or section 519(b)(4) of the Airport and Airway Improvement Act of 1982, as amended, (AAIA), 49 U.S.C. 47106(d) and 47111(d). A party seeking judicial review of a final decision and order shall file a petition for review with the Court not later than 60 days after a final decision and order under the AAIA has been served on the party or within 60 days after the entry of an order under 49 U.S.C. 40101 *et seq.*

(b) The following do not constitute final decisions and orders subject to judicial review:

(1) An FAA decision to dismiss a complaint without prejudice, as set forth in § 16.27;

(2) A Director's determination;

(3) An initial decision issued by a hearing officer at the conclusion of a hearing;

(4) A Director's determination or an initial decision of a hearing officer that becomes the final decision of the Associate Administrator because it was not appealed within the applicable time periods provided under §§ 16.33(b) and 16.241(b).

Subpart I—Ex Parte Communications

§ 16.301 Definitions.

As used in this subpart:

Decisional employee means the Administrator, Deputy Administrator, Associate Administrator, Director, hearing officer, or other FAA employee who is or who may reasonably be expected to be involved in the decisional process of the proceeding.

Ex parte communication means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this part, or communications between FAA employees who participate as parties to a hearing pursuant to 16.203(b) of this part and other parties to a hearing.

§ 16.303 Prohibited ex parte communications.

(a) The prohibitions of this section shall apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply at the time of the acquisition of such knowledge.

(b) Except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the FAA and no FAA employee participating as a party shall make or knowingly cause to be made to any decisional employee an ex parte communication relevant to the merits of the proceeding;

(2) No FAA employee shall make or knowingly cause to be made to any interested person outside the FAA an ex parte communication relevant to the merits of the proceeding; or

(3) Ex parte communications regarding solely matters of agency procedure or practice are not prohibited by this section.

§ 16.305 Procedures for handling ex parte communications.

A decisional employee who receives or who makes or knowingly causes to be made a communication prohibited by § 16.303 shall place in the public record of the proceeding:

(a) All such written communications;

(b) Memoranda stating the substance of all such oral communications; and

(c) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (a) and (b) of this section.

§ 16.307 Requirement to show cause and imposition of sanction.

(a) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of § 16.303, the Associate Administrator or his designee or the hearing officer may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(b) The Associate Administrator may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the FAA, consider a violation of this subpart sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

Issued in Washington, DC, on October 8, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–26180 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
October 16, 1996

Part III

Environmental Protection Agency

40 CFR Part 140

Marine Sanitation Device Standard—Establishment of Drinking Water Intake No Discharge Zone(s) Under Section 312(f)(4) (A) and (B) of the Clean Water Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 140

[FRL–5615–9]

Marine Sanitation Device Standard—Establishment of Drinking Water Intake No Discharge Zone(s) Under Section 312(f)(4) (A) and (B) of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Clean Water Act (CWA) authorizes the Administrator of the Environmental Protection Agency (EPA) to establish drinking water intake no discharge zones upon application by a State. Within these zones, the discharge of sewage from a vessel, whether treated or untreated, is prohibited. This provision was added to the statute in 1977, after EPA had promulgated regulations on application requirements for other types of no discharge zones. EPA has not promulgated regulations specific to application requirements for drinking water intake no discharge zones under the CWA. Applicants for drinking water intake zones, therefore, have followed application requirements which are not tailored to drinking water intakes, and provided more information than needed for these no discharge zones. EPA is proposing today to promulgate application requirements specific to drinking water intake no discharge zones. The effect of today's proposal would be to more specifically tailor the type of information required in an application for a drinking water intake no discharge zone and reduce the amount of information required.

DATES: Comments must be received on or before December 16, 1996. All comments must be postmarked or delivered by hand to the address below by this date.

ADDRESSES: Comments should be addressed to Drinking Water Intake Zones Comment Clerk, Water Docket MC–4101; Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460. The official record for this rulemaking is available for viewing at EPA's Water Docket, Rm. M2616, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. For access to the docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m., Monday through Friday, excluding legal holidays for an appointment. EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

EPA will also accept comments electronically, but these comments must be submitted also in paper version. Comments should be addressed to the following Internet address: ow-docket@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Deborah Lebow, Oceans and Coastal Protection Division, United States Environmental Protection Agency, 4504F, 401 M St. S.W., Washington, D.C. 20460, (202) 260–8448.

SUPPLEMENTARY INFORMATION: EPA is today proposing to clarify the application requirements for designating drinking water intake no discharge zones under section 312 of the CWA. This rule only applies to States requesting approval of drinking water intake no discharge zones and has no direct effect on any regulated entity. These requirements are being proposed pursuant to section 312(f)(4)(B) of the CWA (33 U.S.C. 1322(f)(4)(B)), which provides that ''Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.'' The effect of this proposal would be to set out application requirements specific to drinking water intake no discharge zones, which would reduce the amount of information States have submitted to EPA under existing 40 CFR 140.4(b) to establish these no discharge zones.

The public is invited to participate in this rulemaking by submitting written views, data or arguments on any aspect of the proposed rule or on any additional requirements the public feels should be included. Comments should include the name and address of the person commenting, identify this proposed rule by name (Establishment of Drinking Water Intake No Discharge Zone(s)), cite the specific section of the proposed rule to which each comment applies, and give the reasons for the comment. Commenters are requested to submit any references cited in their comments. Commenters are also requested to submit 2 copies of their written comments and enclosures. Commenters who want receipt of their comments acknowledged should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. For electronic comments, commenters should include their complete name, full address, and E-mail address. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA is experimenting with electronic commenting, therefore commenters must submit both electronic comments and duplicate paper comments. All comments post-marked or hand-delivered by the expiration date of the comment period will be considered before any action is taken on this proposed rule.

Organization of This Document

I. Background
II. Detailed Discussion of the Proposed Rule
III. Compliance with Other Laws and Executive Orders
  A. Regulatory Flexibility Act
  B. Paperwork Reduction Act
  C. Executive Order 12866
  D. The Unfunded Mandates Reform Act and Executive Order 12875
IV. Proposed Rule

I. Background

Section 312 of the CWA, entitled ''Marine sanitation devices,'' regulates the discharge of vessel sewage. The primary purpose of section 312 is to prevent the discharge of untreated or inadequately treated sewage from vessels into waters of the United States. This provision is designed to help achieve the goal of the CWA which is to restore and maintain the chemical, physical, and biological integrity of the nation's waters.

Under sections 312(f)(3) and 312(f)(4)(A) and (B) of the CWA, States may apply to EPA for the designation of certain waterbodies as no discharge zones. Originally, section 312 contained only two provisions addressing no discharge zones: sections 312(f)(3) and 312(f)(4)(A). Under section 312(f)(3), if a State determines that some or all of the waters within that State require additional environmental protection, the State may apply to the Administrator for approval of a State designation of a no discharge zone. Approval of such application depends, among other things, upon a finding by the Administrator that adequate and reasonably available pump-out facilities exist for the area to be designated a no discharge zone. The regulations at 40 CFR 140.4(a) specify the application requirements that must be met for approval of a section 312(f)(3) no discharge zone. We are proposing to add an introductory heading to clarify this linkage to CWA section 312(f)(3), but those regulations are not otherwise affected by today's proposal. Currently, EPA has approved thirty such no discharge zones.

Under section 312(f)(4)(A), upon application by a State the Administrator may determine that the protection and enhancement of the

quality of specified waters (e.g., pristine water bodies) requires a complete prohibition of the discharge of sewage from vessels. This determination is different from a section 312(f)(3) approval of a State designation, in that the Administrator is not also required to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from vessels are reasonably available. The regulations at 40 CFR 140.4(b) set forth the criteria upon which the Administrator will evaluate such a State application, and provide that they apply to applications under section 312(f)(4) of the Act. (Currently, EPA has designated one no discharge area for this second type of no discharge zone, which is identified in 40 CFR 140.4(b)(1)(i).)

In 1977, Congress amended section 312 to add a new section 312(f)(4)(B). Under section 312(f)(4)(B), States may apply to EPA for a complete prohibition of the discharge of sewage from vessels into a body of water designated as a drinking water intake no discharge zone. The statute requires that designation of a drinking water intake no discharge zone may only be accomplished by regulation. For this type of no discharge zone, the Administrator is not required to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from vessels are reasonably available, nor is it required to determine whether the protection and enhancement of the water quality requires such a prohibition. Prior to this proposed regulation, EPA has designated one drinking water intake no discharge zone under section 312(f)(4)(B), which is currently codified at 40 CFR 140.4(b)(1)(ii).

No regulations directly and specifically responsive to section 312(f)(4)(B) have been promulgated. Consequently, the regulations in 40 CFR 140.4(b) have been used, as they purport to apply to any no discharge zone established under section 312(f)(4). The result of not having regulations specifically dealing with section 312(f)(4)(B) is that applicants may compile extraneous materials for a section 312(f)(4)(B) drinking water intake no discharge zone, and do not provide other information that the Administrator needs to make a section 312(f)(4)(B) decision. Today's proposed regulations clarify that § 140.4(b) only applies to designations for no discharge areas under section 312(f)(4)(A) and adds a new proposed § 140.4(c) to specifically cover application requirements for the designation of drinking water intake no discharge zones under section 312(f)(4)(B).

In clarifying the regulations pursuant to section 312(f)(4)(B), EPA has sought to comply with Congressional intent expressed in the legislative history for this section. The 1977 CWA Conference Report, referring to section 312(f)(4)(B), stated ''[t]he conferees intend that the Administrator [of the Environmental Protection Agency] define the area to which the prohibition applies in his promulgation of such a prohibition.'' See Clean Water Act of 1977, Conference Report (to accompany H.R. 3199), H. Rep. No. 830, 95th Congress, 1st sess. (1977). The Report went on to say ''[i]n implementing section 312(f)(4)(B), the Administrator is cautioned to use discretion in establishing drinking water intake zones. This new paragraph is intended to protect drinking water and not to result in far reaching discharge prohibitions unnecessary to protect drinking water.'' *Id.* The proposed regulations are designed primarily to ensure that the size of the requested no discharge zone is neither too large nor too small to protect drinking water intake zones from vessel sewage.

II. Detailed Discussion of the Proposed Rule

Today's proposal would add new § 140.4(c) to specifically address application requirements for drinking water intake no discharge zones under CWA section 312(f)(4)(B). In addition, the existing no discharge zone designated under CWA secion 312 (f)(4)(B), now set out in 40 CFR 140.4(b)(1)(ii), would be relocated into new § 140.4(c)(4)(i).

EPA is proposing today in 40 CFR 140.4(c) that in its application to the Administrator for establishment of a drinking water intake no discharge zone, a State should (1) identify and describe exactly and in detail the location of the drinking water supply intake(s) and the community served by the intake(s), including average and maximum expected amounts of inflow; (2) specify and describe exactly and in detail, the waters, or portions thereof, for which a complete prohibition is desired, and where appropriate, average, maximum and low flows; (3) include a map, preferably a USGS topographic quadrant map, clearly marking by latitude and longitude the waters or portions thereof to be designated a drinking water intake no discharge zone; and (4) include a statement of basis justifying the size of the requested drinking water intake no discharge zone, for example, identifying areas of intensive boating activities.

The requirement that a State specify and describe exactly and in detail the location of the drinking water supply intake(s) and the community served by the intake(s) is intended to verify the existence of a drinking water supply intake and to ensure that the location of such intake corresponds to the area to be designated a drinking water intake no discharge zone. Under this requirement, a State should specify and describe the location of the intake in relation to the location of the requested zone. The size of the community served by the intake is also relevant to determining the size of the zone. For example, the larger the drinking water needs of the community being served, the stronger might be the justification for requesting a large drinking water intake no discharge zone. This requirement can be met by specifying the average and maximum expected amounts of inflow.

The requirement to specify and describe exactly and in detail, the waters for which a complete prohibition is desired is intended to assist the Administrator with the task of identifying and defining the requested drinking water intake no discharge zone. The description should include the geographic location of such body of water and other pertinent details, and where appropriate, average, maximum and low flows. Average, maximum and low flows will be relevant for rivers, but not for certain lakes.

The requirement that a State submit a map is also intended to assist the Administrator in documenting the location of the body of water and the size of the drinking water intake no discharge zone. Preferably, the map should be a USGS topographical quadrant map since these will provide the greatest clarity. The desired drinking water intake no discharge zone should be clearly indicated on such map by latitude and longitude.

The requirement that a State applicant justify the size of the requested zone is intended to ensure a rational relationship between the size of the requested zone and the need to protect drinking water for the designated community. For example, a drinking water intake located in the proximity of an intensive boating area may require a larger no discharge area to protect the integrity of the drinking water. This requirement is designed to guard against far reaching prohibitions that are unnecessary to protect drinking water, while at the same time ensuring that prohibitions would affect a large enough area to effectively protect the drinking water supply.

III. Compliance with Other Laws and Executive Orders

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq*., EPA must prepare a Regulatory Flexibility Analysis for regulations having a significant impact on a substantial number of small entities. The RFA recognizes three kinds of small entities, and defines them as follows: (1) Small governmental jurisdictions: any government of a district with a population of less than 50,000. (2) Small business: any business which is independently owned and operated and not dominant in its field, as defined by the Small Business Administration regulations under the Small Business Act. (3) Small organization: any not for profit enterprise that is independently owned and operated and not dominant in its field.

As discussed in Section III.D. of this preamble on the Unfunded Mandates Reform Act, today's proposed rule does not impose economic burdens. Accordingly, the Administrator certifies that today's proposed rule would not have a significant impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis therefore is unnecessary.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1791.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, D.C. 20460 or by calling (202) 260–2740.

This information is required from States who wish to designate a drinking water intake no discharge zone under CWA Section 312(f)(4)(B) and it allows the EPA Administrator to evaluate State applications for designating no discharge zones. This information is necessary to ensure that the discharge area is neither too large nor too small to protect drinking water intake zones from vessel sewage and it is not of a confidential nature.

Applications for drinking water intake no discharge zones have an estimated reporting burden averaging 70 hours per response and an estimated annual record keeping burden of one hour per respondent at approximately $1,472 per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after October 16, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by November 15, 1996. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant,'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

D. The Unfunded Mandates Reform Act, and Executive Order 12875

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with

the regulatory requirements. EPA has determined that today's proposed regulation does not impose any enforceable duties upon the private sector. Therefore, this proposed rulemaking is not a ''private sector mandate.''

Further, EPA has determined that today's action does not include, a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed rulemaking should reduce the reporting and recordkeeping burden on applicants. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. It is codifying in 40 CFR 140.4(c) that which already exists in the statute and is self-implementing. Therefore, this action should have no regulatory requirements that might significantly or uniquely affect small governments. Executive Order 12875 requires that, to the extent feasible and permitted by law, no Federal agency shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless funds necessary to pay the direct costs incurred by the State, local or tribal government in complying with the mandate are provided by the Federal government. EPA has determined that the requirements of Executive Order 12875 do not apply to today's proposed rulemaking, since no mandate is created by this action.

List of Subjects in 40 CFR Part 140

Environmental protection, Drinking Water Intake Zones, Marine sanitation device standard; No discharge areas.

Dated: October 3, 1996.

Carol M. Browner,

Administrator.

PART 140—[AMENDED]

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 140 as follows:

1. The authority citation for part 140 is revised to read as follows:

Authority: Sec. 312, as added Oct. 18, 1972, Pub. L. 92–500, sec. 2, 86 Stat. 871, 33 U.S.C. 1332(b)(1).

§ 140.4 [Amended]

2. Section 140.4 is amended:

a. In paragraph (a) introductory text, in the first sentence, by revising the first word ''A'' to read ''a'' and by adding to the beginning of the sentence the words *''Prohibition pursuant to CWA section 312(f)(3):''*.

b. In paragraph (b) introductory text, in the first sentence, by revising the first word ''A'' to read ''a'' and by adding to the beginning of the sentence the words *''Prohibition pursuant to CWA section 312(f)(4)(A):''* and by removing from the first sentence the words ''312(f)(4)'' and adding, in their place, the words ''312(f)(4)(A).''

c. In paragraph (b)(1) by removing the word ''prohibited:'' and adding, in its place, the words ''prohibited pursuant to CWA section 312(f)(4)(A):'', and by redesignating paragraph (b)(1)(ii) as new paragraph (c)(4)(i) and reserving paragraph (b)(1)(ii).

d. By adding the following new paragraph (c) to read as follows:

§ 140.4 Complete Prohibition.

* * * * *

(c)(1) *Prohibition pursuant to CWA section 312(f)(4)(B):* A State may make written application to the Administrator of the Environmental Protection Agency under section 312(f)(4)(B) of the Act for the issuance of a regulation establishing a drinking water intake no discharge zone which completely prohibits discharge from a vessel of any sewage, whether treated or untreated, into that zone in particular waters, or portions thereof, within such State. Such application shall:

(i) Identify and describe exactly and in detail the location of the drinking water supply intake(s) and the community served by the intake(s), including average and maximum expected amounts of inflow;

(ii) Specify and describe exactly and in detail, the waters, or portions thereof, for which a complete prohibition is desired, and where appropriate, average, maximum and low flows in million gallons per day (MGD) or the metric equivalent;

(iii) Include a map, preferably a USGS topographic quadrant map, clearly marking by latitude and longitude the waters or portions thereof to be designated a drinking water intake zone; and

(iv) Include a statement of basis justifying the size of the requested drinking water intake zone, for example, identifying areas of intensive boating activities.

(2) If the Administrator finds that a complete prohibition is appropriate under this paragraph, he or she shall publish notice of such finding together with a notice of proposed rulemaking, and then shall proceed in accordance with 5 U.S.C. 553. If the Administrator's finding is that a complete prohibition covering a more restricted or more expanded area than that applied for by the State is appropriate, he or she shall also include a statement of the reasons why the finding differs in scope from that requested in the State's application.

(3) If the Administrator finds that a complete prohibition is inappropriate under this paragraph, he or she shall deny the application and state the reasons for such denial.

(4) For the following waters the discharge from a vessel of any sewage, whether treated or not, is completely prohibited pursuant to CWA section 312(f)(4)(B):

(i) * * *

(ii) (Reserved).

[FR Doc. 96–26193 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
October 16, 1996

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Within the Territory and Airspace of Iraq; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 28691; Special Federal Aviation Regulation (SFAR) No. 77]

RIN 2120–AG25

Prohibition Against Certain Flights Within the Territory and Airspace of Iraq

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action prohibits flight operations within the territory and airspace of Iraq by any United States air carrier or commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. Recently heightened tensions and instability in Iraq resulting from the actions of the Iraqi government have increased the threat of harm to U.S. operators and civil aircraft operating in this area. Therefore, this action is taken to prevent an undue hazard as a result of the threat to persons and U.S.-registered aircraft overflying the area.

DATES: This SFAR is effective October 9, 1996, and shall remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 267–3515.

SUPPLEMENTARY INFORMATION:

Availability of Document

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the Federal Register's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 202–267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's web page at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the SFAR number or docket number of this action.

Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operators throughout the world. Section 40101(d)(1) of Title 49, United States Code, requires the Administrator of the FAA to consider the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security as being in the public interest. Section 44701(a) of Title 49, United States Code, provides the FAA with broad authority to carry out this policy by prescribing regulations governing the practices, methods, and procedures necessary to ensure safety in air commerce. In addition, 49 U.S.C. 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the United States Government under an international agreement.

In the exercise of these statutory responsibilities, the FAA already has restricted certain flight operations to and from Iraq. SFAR 61–2 prohibits, with certain exceptions, the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of Iraq, and the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to any intermediate destination, if the flight's origin or ultimate destination is Iraq. SFAR 61–2 implements Executive orders 12722 (1990) and 12724 (1990) and UN Security Council Resolutions 661, 666 and 670 (1990) mandating an embargo of air traffic with Iraq.

The FAA also has published a Notice to Airmen (NOTAM) advising of no-fly zones established by the United States and its coalition allies. The no-fly zones cover Iraqi territorial airspace north of 36 degrees north latitude and south of 33 degrees north latitude. The no-fly zones may be entered by aircraft only in accordance with the procedures established by the U.S. and its coalition allies, as described in the NOTAM.

The FAA has determined that the recently heightened tensions and instability in Iraq resulting from the actions of the Iraqi government have increased the threat to civil aircraft. The military situation in Iraq is tense after Iraqi attacks in Kurdish areas north of the 36th parallel (the boundary of the northern no-fly zone in Iraq) and the shift of the southern no-fly zone boundary from the 32nd to the 33rd parallel. On September 3, 1996, Iraqi President Saddam Hussein urged his air defense forces to ignore both the southern and northern no-fly zones and attack ''any air target of the aggressors.'' This threat was not limited specifically to the aircraft of the U.S. military and the coalition forces. The threat could also apply to any civilian aircraft that might attempt to enter the area.

Even after the 1991 Gulf War, the Iraqi military still possesses a wide range of sophisticated weapons that potentially could be used to attack civil aviation aircraft overflying Iraq at cruising altitudes. These weapons include Russian- and French-made fighter and attack aircraft armed with cannons and air-to-air missiles, as well as Russian surface-to-air missile systems. The partially rebuilt integrated air defense command and control system combines early warning radars and visual observers with the sophisticated weapons.

These circumstances justify the imposition of certain additional measures to ensure the safety of U.S.-registered aircraft and operators that are conducting flight operations in the vicinity of Iraqi territory and airspace.

Prohibition Against Certain Flights Within the Territory and Airspace of Iraq

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce, I have determined that immediate action by the FAA is required to prevent the potential injury or loss of certain U.S.-registered aircraft and U.S. operators conducting flights in the vicinity of Iraq. I find that the circumstances surrounding the recently heightened tensions and instability in and around Iraq and the actions of the Iraqi military, as described above, present an immediate hazard to the operation of civil aircraft in the territory and airspace of Iraq. Accordingly, I am ordering a prohibition of flight operations within the territory and airspace of Iraq by any United States carrier or commercial operator, by any person exercising the

privileges of an airman certificate issued by the FAA except persons operating U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to U.S.-registered aircraft and to protect persons on board that aircraft. Operations approved by the Administrator or by another agency of the United States Government and certain emergency operations shall be excepted from the prohibition.

Because the circumstances described in this notice warrant immediate action by the FAA to maintain the safety of flight, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under 49 U.S.C. 40105(b)(1)(A) to ensure that I exercise my duties consistently with the obligations of the United States under international agreements. The Department of State has been advised of, and has no objection to, the action taken herein.

This rule shall remain effective until further notice.

Regulatory Evaluation

Benefits

This regulation will generate potential benefits in the form of ensuring that the current acceptable level of safety continues for U.S. commercial air carriers and other operators. The potential benefits of this action will accrue only to those air carriers and other operators currently engaging in overflights of Iraqi territory; however, the FAA believes that there are no carriers currently engaged in commercial revenue operations over Iraq.

Costs

The SFAR will impose a potential incremental cost of compliance in the form of the circumnavigation (including the additional time for preflight planning) of Iraqi territory and airspace. The FAA believes that there are no U.S. air carriers or commercial operators currently conducting revenue flights over Iraq. However, if there are affected carriers, the FAA seeks comments on the economic effects of this rule.

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 proposed rule would have ''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 FAA believes that there are no U.S. air carriers affected by this SFAR and therefore no ''small entities'' affected as defined by FAA Order 2100.14A. Thus, the SFAR would not impose a ''significant economic impact on a substantial number of small entities.''

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*).

International Trade Impact Assessment

This final rule could have an impact on the international flights of U.S. air carriers or commercial operators because it will restrict their ability to overfly the territory of Iraq and therefore may impose additional costs relating to the circumnavigation of Iraq's territorial airspace. This final rule, however, will not restrict the ability of foreign air carriers to overfly Iraqi territory. Given the narrow scope of this rule, it will not eliminate existing or create additional barriers to the sale of foreign aviation products in the United States or to the sale of U.S. aviation products and services in foreign countries.

Federalism Determination

The SFAR set forth 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 (52 FR 41685; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is a ''significant regulatory action'' under Executive Order 12866. This action is considered a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The FAA has determined that there are no U.S. air carriers affected by the SFAR, nor any ''small entities'' as defined by FAA Order 2100.14A. Thus, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Aircraft, Airmen, Air traffic control, Aviation safety, Freight, Iraq.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 USC 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. Special Federal Aviation Regulation (SFAR) No. 77 is added to read as follows:

Special Federal Aviation Regulation No. 77—Prohibition Against Certain Flights Within the Territory and Airspace of Iraq

1. *Applicability.* This rule applies to the following persons:

(a) All U.S. air carriers or commercial operators;

(b) All persons exercising the privileges of an airman certificate issued by the FAA except such persons operating U.S.-registered aircraft for a foreign air carrier; or

(c) All operators of aircraft registered in the United States except where the operator of such aircraft is a foreign air carrier.

2. *Flight prohibition.* Except as provided in paragraphs 3 and 4 of this SFAR, no person described in paragraph 1 may conduct flight operations over or within the territory and airspace of Iraq.

3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations over or within the territory and airspace of Iraq where such operations are authorized either by exemption issued by the Administrator or by another agency of the United States Government.

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Except for U.S. air carriers or commercial operators that are subject to

the requirements of 14 CFR parts 119, 121, or 135, each person who deviates from this rule shall, within ten (10) days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation including a description of the deviation and the reasons therefore.

5. *Expiration*. This Special Federal Aviation Regulation will remain in effect until further notice.

Issued in Washington, DC, on October 9, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–26458 Filed 10–10–96; 1:13 pm]

BILLING CODE 4910–13–M

federal register

Wednesday
October 16, 1996

Part V

Department of Education

34 CFR Part 400, et al.

Vocational and Adult Education Programs; Regulatory Reinvention; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 400, 401, 402, 403, 406, 410, 411, 412, 413, 415, 421, 425, 426, 427, 428, 429, 460, 461, 464, 472, 477, 489, 490, and 491

Regulatory Reinvention for Vocational and Adult Education Programs

AGENCY: Department of Education.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary is giving the public early notice of regulatory actions the Secretary intends to take regarding the vocational and adult education programs. This notice solicits public input to help guide the Department in revising and simplifying regulations and reducing regulatory burden.

DATES: Comments will be most useful if submitted by November 15, 1996.

ADDRESS: Patricia W. McNeil, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 4090, Switzer Building), Washington, D.C. 20202–7100.

FOR FURTHER INFORMATION CONTACT: Jon Weintraub, telephone (202) 205–5602. 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 except Federal holidays. Internet: jon__weintraub@ed.gov

SUPPLEMENTARY INFORMATION:

Background

The President, on March 4, 1995, announced a Regulatory Reinvention Initiative to reform the Federal regulatory system. The Initiative requires all Federal agencies to review their regulations page by page in an effort to eliminate obsolete regulations, improve or reinvent regulations, revise regulations to reward results rather than process, and streamline regulations to achieve agency goals in the most efficient and least intrusive way possible. Since then, the Department has been thoroughly reviewing all of its regulations pursuant to the President's instructions.

As directed by the President, in June of 1995 each Federal agency submitted a plan to the Director of the Office of Management and Budget describing the actions it planned to take to eliminate or improve existing regulations. The Secretary committed to the President to eliminate or reinvent 1,984 pages of regulations, representing 93 percent of the Department's regulations. As of August 31, 1996, the Department had eliminated or reinvented 1,827 pages (approximately 92%) of the regulations the Department is committed to changing. These numbers include proposed significant statutory changes that, if enacted, would lead to immediate regulatory elimination or reinvention.

Regulatory review and improvement are occurring Departmentwide. The Department already instituted a number of reforms that have led to fewer regulations and better decisions about when to regulate. For example, the Department's Office of Vocational and Adult Education identified regulations that were no longer necessary for 20 programs, eliminating over 80 pages in the Code of Federal Regulations in May 1995 (see 60 FR 27223, May 23, 1995). Efforts in other offices have resulted in elimination of paperwork burden, increased flexibility, and fewer regulatory requirements.

Reinvention of Vocational and Adult Education Programs

Comprehensive legislative reform proposals that would have significantly changed the existing vocational and adult education programs were not enacted by the 104th Congress. Because these proposals were not enacted, the Department plans to move forward on its normal cycle for reviewing the existing regulations governing these programs.

General Questions

In an initial review of the remaining regulations governing the adult and vocational education programs, the Secretary has identified four broad categories of regulatory provisions:

1. Regulations that merely restate statutory language.
2. Obsolete regulations, i.e., those that govern unfunded programs or contain provisions that no longer have any meaning or effect.
3. Regulations that both restate statutory language and interpret the statute.
4. Regulations that impose requirements not explicitly required by statute. The Secretary plans to eliminate regulations that fall into the first two categories unless the public gives the Secretary reasons to retain those types of regulations. The Secretary would like input from the public in deciding how to treat the regulations in the third and fourth categories. For regulations in the third and fourth categories that are determined, at the conclusion of the review process, to be necessary for effective program administration, the Secretary would maintain, but review and improve them. Examples of all these types of regulations and specific questions follow in the sections describing the vocational and adult education programs.

In addition to the specific questions that follow, the Secretary requests comments on the following general questions:

- Are there reasons why the Department should not eliminate regulations that simply restate the law? If the Department eliminates these provisions, would it be helpful to explain statutory requirements and information currently codified in regulations in a guidebook or other resource?
- Would the changes proposed in this notice have any effects the Department may not have anticipated?
- Would the actions described in this advance notice provide useful regulatory relief?
- Are there other ways the Secretary could reduce costs and burdens associated with these regulations?

Vocational Education Programs

The Carl D. Perkins Vocational and Applied Technology Education Act, Public Law 101–392, (Perkins Act) authorizes the Department to fund vocational programs offered in secondary and postsecondary schools. Under the State Vocational and Applied Technology Education Program, the Department makes formula grants to States and Outlying Areas to expand and improve their programs of vocational education and provide equal access in vocational education to members of special populations, such as individuals with disabilities or economically disadvantaged students. In addition, the national programs authorized by the Perkins Act support research, demonstration, development, and dissemination activities, with special emphasis on the integration of academic and vocational education, and development of business and education standards designed to improve vocational education across the country. Emphasis is also given to improving access of populations, such as American Indians and Native Hawaiians, to quality vocational education programs.

The vocational education programs governed by regulations in Title 34 of the Code of Federal Regulations (CFR) are:

- Indian Vocational Education Program (Part 401)
- Native Hawaiian Vocational Education Program (Part 402)

- State Vocational and Applied Technology Education Program (Part 403)
- State-Administered Tech-Prep Education Program (Part 406)
- Tribally Controlled Postsecondary Vocational Institutions Program (Part 410)
- Vocational Education Research Program (Part 411)
- National Network for Curriculum Coordination in Vocational and Technical Education (Part 412)
- National Center or Centers for Research in Vocational Education (Part 413)
- Demonstration Centers for the Training of Dislocated Workers Program (Part 415)
- Business and Education Standards Program (Part 421)
- Demonstration Projects for the Integration of Vocational and Academic Learning Program (Part 425)
- Cooperative Demonstration Program (Part 426)
- Bilingual Vocational Training Program (Part 427)
- Bilingual Vocational Instructor Training Program (Part 428)
- Bilingual Vocational Materials, Methods, and Techniques Program (Part 429)

In addition to reviewing regulations governing specific vocational education programs, the Secretary is reviewing and may revise the regulations in 34 CFR Part 400, Vocational and Applied Technology Education Programs—General Provisions, which apply to all of the vocational education programs.

Section 563 of the Improving America's Schools Act, however, restricts the Department from changing any regulations regarding special populations and local evaluations until the Perkins Act is reauthorized. Therefore, those regulations are not included in this effort to review and improve the regulations governing the vocational education programs.

Examples of Vocational Education Regulations to Eliminate

The Secretary plans to eliminate the regulations described in this section because they repeat statutory language. Examples include § 403.61, which restates section 516(c) of the Perkins Act, and § 403.62, which restates sections 516(b) and (d) of the Perkins Act, in the State Vocational and Applied Technology Education Program. These sections describe permissible project services and activities under the basic grant and the applicable administrative provisions. Another example of a regulatory provision that the Secretary intends to eliminate is § 403.70, which restates section 201 of the Act regarding how a State must use funds to conduct programs, projects, services, and activities under the State Programs and State Leadership Activities. An example of a regulatory provision in the-State-Administered Tech-Prep Education Program that restates statutory language is § 406.3. This provision repeats the requirements in section 344 of the Perkins Act, regarding the projects that a State board assists and how funds must be spent. All of these are examples of the types of regulations that the Secretary plans to eliminate.

In addition, there are a number of regulatory provisions that merely restate statutory language, but that consolidate related requirements from many sections of the Perkins Act in one regulatory provision for convenience and clarity. For example, § 403.32 consolidates requirements related to the State plan for vocational education that are imposed by 15 provisions of the Perkins Act. The Secretary would like input from the public on how to approach regulations, such as § 403.32, that both restate statutory language and consolidate related requirements. Are there ways that are as good or better than regulations for providing the same consolidation and clarification that would allow the Department to shorten the regulations and make clear which requirements are statutory? Would it be useful to retain these types of regulatory provisions?

Moreover, the Department plans to eliminate regulations that address unfunded programs. For example, the Department would eliminate Subpart F (§ 403.130–§ 403.174) of the regulations governing the State Vocational and Applied Technology Education Program (34 CFR Part 403). Subpart F governs the special programs in Title III of the Perkins Act which were last funded in fiscal year 1994. Other unfunded programs for which the Secretary intends to eliminate regulations are the Bilingual Vocational Training Program (34 CFR Part 427) and Bilingual Vocational Instructor Training Program (34 CFR Part 428). The Secretary does not expect to have additional funding for any of these programs prior to the enactment of new legislation that would authorize vocational education programs.

The Secretary is considering removing sections governing requirements or procedures provided for in the Education Department General Administrative Regulations (EDGAR). For example, § 411.23, which applies to the Vocational Education Research Program, establishes procedures for evaluating unsolicited applications. The Secretary is considering removing § 411.23 and following the procedures for evaluating unsolicited applications in EDGAR. Using the EDGAR procedures would create more uniformity for applicants, particularly for those who apply for a number of Department grants.

Some regulations provide examples that do not impose requirements on grantees or applicants and, thus, do not need to exist in regulations. For instance, in the Business and Education Standards Program, § 421.2(d) provides examples of comparable national organizations. Also, Appendix B to Part 403 (State Vocational and Applied Technology Education Program) contains examples of methods by which a local educational agency can demonstrate its compliance with certain comparability requirements. Are examples in the regulations such as these useful? Or would streamlined regulations, with examples and other information on implementation provided in other easily accessible formats, be more desirable?

Examples of Vocational Education Regulations to Review and Improve

Some regulations governing vocational education programs interpret statutory language or add requirements not explicitly required by statute. For example, in § 403.31(c), which relates to the State Vocational and Applied Technology Education Program, the Secretary implements the statutory phrase ''appropriate and sufficient notice'' as required by section 113(a)(2)(B) of the Perkins Act through a regulatory provision that requires notice ''at least 30 days prior to the hearings.'' The Secretary is inclined to delete these specific regulatory requirements that implement general statutory language and that do not affect significantly the operation of the program. The Secretary wants to give States greater flexibility to judge whether notice is appropriate and sufficient. Is the more specific requirement necessary to protect the public? Should the Secretary remove provisions such as this one?

Other regulations that interpret the statute or add requirements were thought to be needed to clarify statutory requirements that could have been implemented in a wide variety of ways and that were expected to affect significantly the operation of the program. The Secretary expects to review and improve these sections while maintaining appropriate requirements to facilitate program administration. Examples of these types of regulations are the following

provisions regarding the Vocational Education Basic Grant Program (34 CFR Part 403): § 403.118 which establishes criteria for approving an alternative method for determining how a State may distribute funds for the Postsecondary and Adult Vocational Education Program; § 403.184 which establishes procedures for seeking a waiver of the maintenance-of-effort requirement; and § 403.180(c)(3) which explains in detail the procedure for meeting the ''hold-harmless'' requirements in section 102(c) of the Perkins Act. In the State-Administered Tech-Prep Education Program (34 CFR Part 406), the Secretary would retain § 406.10(d), which interprets and clarifies the statutory requirements for applications, and other sections similar to § 406.10(d). How can the Secretary improve sections such as these? Should the Secretary make any changes to these regulations?

Adult Education Programs

Programs authorized by the Adult Education Act, Public Law 89–750, as amended, support and promote services that assist educationally disadvantaged adults in developing basic skills, including furthering literacy, achieving certification of high school equivalency, and learning English. Through the Adult Education State-Administered Basic Grant Program (34 CFR Part 461), the Department assists State efforts to provide these services to adults who lack a high school diploma or the basic skills to function effectively in the workplace and their daily lives. At the national level, the Department funds applied research, dissemination, evaluation, technical assistance, and other activities that show promise of contributing to the improvement and expansion of adult education. In addition to the Adult Education State-Administered Basic Grant Program, the adult education programs governed by regulations in Title 34 of the CFR are:

- State Literacy Resource Centers Program (Part 464)
- National Workplace Literacy Program (Part 472)
- State Program Analysis Assistance and Policy Studies Program (Part 477)
- Functional Literacy for State and Local Prisoners Program (Part 489)
- Life Skills for State and Local Prisoners Program (Part 490)
- Adult Education for the Homeless Program (Part 491)

In addition to reviewing regulations governing specific adult education programs, the Secretary is reviewing and may revise the regulations in 34 CFR Part 460, Adult Education—General Provisions, which apply to all of the adult education programs.

Examples of Adult Education Regulations to Eliminate

The Secretary plans to eliminate the regulations described in this section because they either merely repeat statutory language or are obsolete.

Under the Adult Education State-Administered Basic Grant Program (34 CFR Part 461), § 461.2 merely repeats sections 321 and 331(a) of the Adult Education Act regarding which entities are eligible for an award; § 461.11 restates sections 342(a)(1)–(2) and (b) of the Adult Education Act, which specify what a State educational agency (SEA) must do in formulating a State plan; and § 461.40 repeats the statutory requirements in sections 323 and 331(c) of the Adult Education Act regarding administrative costs. Are there reasons to retain these regulations?

Also, under this program, § 461.3(b)(7) requires that, by July 25, 1993, each SEA develop and implement indicators of program quality. Because this deadline occurred more than three years ago, and because SEAs are required by the Adult Education Act to continue using indicators of program quality, the Secretary plans to eliminate this requirement.

Examples of Adult Education Regulations to Review and Improve

The Secretary would like input from the public on how to approach regulations that both restate statutory language and interpret the statute. Examples of regulations that the Secretary is considering changing follow in this section of the notice.

Section 461.10 of the Adult Education State-Administered Basic Grant Program describes the documents that a State must submit to receive a grant. Many of the requirements included in this provision are explicitly required by the statute; other explicit statutory requirements are recast in this regulatory provision as assurances that a State must provide in its application. This provision also requires that applicants assure that they will meet certain requirements not explicitly provided for in the statute. Are there reasons not to eliminate those portions of the regulation that merely repeat statutory language, including the assurances based on statutory requirements? How would it affect SEAs if the Department retained only those parts of the regulations that set forth requirements beyond those explicitly provided for in the statute?

Section 461.12 is another example of a regulatory provision that contains both repetition of statutory language and additional requirements not explicitly contained in the statute. This section prescribes the required contents of a State plan and an interpretation of the statutory ''direct and equitable'' requirement, which the Department plans to retain. Is there any reason not to eliminate those portions of the regulation that duplicate the statute?

There are also sections of the regulations that interpret the statute or add requirements that are not explicitly required by statute and that were thought to be necessary to administer the program more effectively. Examples of these types of regulations include the following: § 460.4 which defines terms such as ''adult basic education'', ''adult secondary education'', and ''State administrative costs''; § 461.41(c) which explains what constitutes the non-Federal share of expenditures under the State plan; and §§ 461.42–461.45 which provide maintenance of effort definitions and procedures, including provisions regarding obtaining a waiver of these requirements. What changes should the Secretary make to improve sections such as these?

Regulations Regarding Fees For Basic Adult Education

There are several regulations that impose requirements that are not explicitly required by the statute that the Secretary is reviewing and considering revising.

One example is § 461.10(b)(7), which requires an SEA to assure that adults enrolled in adult basic education and English as a second language (ESL) programs will not be charged tuition, fees, or be required to purchase any materials that are needed for participation in the program. The Adult Education Act does not specify any restrictions regarding charging tuition or fees to students in any adult education programs. The regulations reflect a longstanding Federal policy to make adult basic education and ESL programs available free of charge. Historically, the Department has regarded this type of regulation as necessary to provide access to education for the many adults who lack the funds to pay for a basic education.

The reason the Secretary has selected the prohibition on fees as an example of a regulation that will be reviewed is that some SEAs and local providers have asked the Secretary to reconsider the prohibition. Because these parties have suggested that some services might be reduced unless the prohibition is relaxed or eliminated from the regulations, the Secretary would particularly like input from the public

in deciding what changes, if any, should be made to this section. In considering whether to revise this section, the Secretary requests that commenters address the impact of their proposals on needy students.

Commenters should be aware that even if the prohibition were relaxed or eliminated, certain statutory and regulatory provisions would remain in place. For example, the statute would still afford a preference to programs that can recruit and serve educationally disadvantaged adults in areas in which these adults are highly concentrated; prohibit the supplanting of Federal funds by State and local funds; and require State maintenance of non-Federal effort. Section 76.534 of Title 34 of the CFR would also forbid States to count tuition and fees collected from students toward meeting matching, cost sharing, or maintenance of effort requirements.

In considering whether and how to revise the prohibition on charging fees for adult basic education and ESL programs, the Secretary is particularly interested in comments on one or more of the following questions:

- Have States investigated whether other non-Federal funds are available to pay for services that might be reduced?
- What fees or other costs would SEAs and local programs propose to charge students?
- Could and would States establish a policy to charge fees only to those adults who are able to pay?
- Would adults be denied access to educational opportunities if they could not pay the necessary fees?
- What effects would fees have on the relationship between programs funded under the Adult Education Act and those funded under other Federal Acts, such as the Job Training and Partnership Act?
- What effects would fees have on the relationship between programs funded under the Adult Education Act and the goals of recent welfare reform legislation—the Personal Responsibility and Work Opportunity Reconciliation Act of 1996?
- Will eliminating this prohibition reduce the number of economically and educationally disadvantaged adults participating in adult basic education programs?
- If eliminating this provision would create hardship for participants, should the Secretary take measures to lessen the impact? For example, the Secretary could establish a cap on the amount of fees that a State could charge, delay implementation of imposing fees, gradually permit the charging of fees, or link fees to the amount of a participant's income?

Invitation to Comment:

Interested persons are invited to submit comments on the Department's plans to revise the regulations governing the vocational and adult education programs. After considering the comments received in response to this advance notice, the Secretary intends to publish notices of proposed rulemaking with an opportunity for further public comment before eliminating or implementing any amendments to the regulations with one exception. For those amendments that the Secretary believes are non-controversial, such as the elimination of obsolete regulations, the Secretary intends to publish direct final rules, which would become effective unless the Department receives any negative public comment.

Comments will be available for public inspection, during and after the comment period, in Room 4090, Switzer Building, 330 C Street, S.W., Washington, D.C. between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Dated: October 10, 1996.

Patricia W. McNeil,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 96–26413 Filed 10–15–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
October 16, 1996

Part VI

Environmental Protection Agency

40 CFR Parts 9 and 82

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 82

[FRL–5635–9]

RIN 2060–AG12

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action imposes restrictions or prohibitions on substitutes for ozone depleting substances (ODS) under the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990 which requires EPA to evaluate and regulate substitutes for the ODS to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone depleting compounds while avoiding a shift into high-risk substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program, and issued decisions on the acceptability and unacceptability of a number of substitutes. In this Final Rule (FR), EPA is issuing its decisions on the acceptability of certain substitutes not previously reviewed by the Agency. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media evaluation of risks to human health and the environment by sector end-use.

EFFECTIVE DATE: November 15, 1996.

ADDRESSES: Public Docket: Comments and data are available in Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 4:00 p.m. on weekdays. Telephone (202) 260–7549; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 233–9193 or fax (202) 233–9665, Stratospheric Protection Division, USEPA, Mail Code 6205J, 401 M Street, SW., Washington, DC 20460. Overnight mail (Fed-Ex, Express Mail, etc.) should be sent to our 501–3rd Street, NW., Washington, DC 20001 street address.

SUPPLEMENTARY INFORMATION:

I. Overview of This Action

This action is divided into five sections, including this overview:

I. Overview of This Action
II. Section 612 Program
A. Statutory Requirements
B. Regulatory History
III. Listing of Substitutes
IV. Administrative Requirements
V. Submission to Congress and the General Accounting Office
VI. Additional Information
Appendix: Summary of Listing Decisions

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.
- *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.
- *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.
- *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consume large volumes of ozone-depleting compounds.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

III. Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risks posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risk screens can be found in the public docket.

Under section 612, the Agency has considerable discretion in the risk management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable, acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Acceptable substitutes can be used for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable for that

end-use. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risks to human health and the environment. Such substitutes are placed on the acceptable subject to use conditions lists. Use of such substitutes in ways that are inconsistent with such use conditions renders these substitutes unacceptable.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives, e.g., performance, technical or safety standards, and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in applications and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this Final Rule (FR), EPA is issuing its decision to restrict use of certain substitutes not previously reviewed by the Agency. As described in the final rule for the SNAP program (59 FR 13044), EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. Consequently, EPA periodically adds substitutes to the list of acceptable alternatives without first requesting comment on new listings. Updates to the acceptable and pending lists are published in separate Notices in the Federal Register.

Parts A. through C. below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing listing decisions in this rulemaking are in Appendix D to 40 CFR 82, subpart G. The comments contained in Appendix D provide additional information on a substitute. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of substitutes to apply all comments in their application of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

1. Response to Comments

Several commenters, representing trade organizations, auto manufacturers, and the general public, expressed concern about the proliferation of alternative refrigerants for motor vehicle air conditioning systems (MVACS). They identified four issues:

- New refrigerants are being used and sold before EPA has come to a final determination on acceptability, including any necessary conditions on use;
- EPA's proposed rule does not make clear who is responsible for developing unique fittings and labels;
- EPA's proposed rule identifies no central source for information about fitting or label specifications;
- EPA's proposed rule does not specify any mechanism to ensure that fittings are unique, or that the colors chosen for labels are specific to individual refrigerants.

The first issue, that people are using new refrigerants before EPA issues final determinations on them, is a result of the notice-and-comment rulemaking process and the statutory framework of the SNAP program. EPA must solicit public comment before imposing any restrictions on the use of a substitute. At the same time, the SNAP notification requirement under section 612 of the Clean Air Act requires those intending to sell new substitutes, to notify EPA, 90 days prior to their introduction, after which they are legally permitted to sell them. Since notice-and-comment rulemaking normally takes up to one year, this means that in some cases products are being sold *before* EPA makes a final determination as to their environmental acceptability.

EPA agrees that the lag time between SNAP notification and a final rulemaking creates a window when people may legally use an alternative refrigerant without an existing acceptability determination. This creates confusion in the marketplace, and an inequitable situation in which new alternatives may be used without the unique fittings and labels that are required of alternatives which have undergone SNAP review, or without a SNAP review of overall environmental acceptability. EPA is concerned about this issue because of the potential for cross-contamination of the supply of refrigerants, particularly CFC–12, and about the potential for mishandling alternatives, or of significant market penetration of alternatives which are later deemed unacceptable.

To address this issue, EPA has promulgated two general requirements which apply to all future submissions as a class. This means that EPA need not engage in notice-and-comment rulemaking on these basic requirements, which apply to all motor vehicle air conditioning substitutes, in the future. This will streamline the regulatory process and lessen the potential for confusion, contamination and mishandling. First, in the June 13, 1995 final rule (60 FR 31092), EPA prohibited the use of flammable CFC alternatives in the MVACS sector as a class. Second, in this final rule EPA has changed the notification requirement for new substitutes in the MVACS sector to require manufacturers of new alternatives to submit unique fittings and a sample label at the start of the SNAP review process, to minimize the likelihood of substitutes pending final action being used without such fittings and labels. Making these requirements final prospectively for all new MVACS submissions will allow EPA to process individual MVACS determinations under SNAP faster.

Two commenters were concerned that by eliminating the notice-and-comment rulemaking process, EPA was removing an opportunity to comment on the possible need for additional use conditions. EPA believes that the petition process established under the SNAP program addresses this issue. For any decision made under SNAP, any person is free to request that EPA subsequently consider changes based on new data, including removing or adding use conditions or other restrictions. If

EPA agrees that such changes are appropriate, they would be promulgated via notice-and-comment rulemaking. In addition, EPA may, on its own, determine that additional conditions or restrictions should be added or removed through future rulemaking.

The second issue relates to the question of who is responsible for developing new unique fittings. EPA has always intended to require manufacturers of new refrigerants to develop new fittings for their refrigerants. To this end, EPA stated in the NPRM that ''it will be necessary for developers of automotive refrigerants to consult with EPA about the existence of other alternatives. Such discussions will lower the risk of duplicating fittings already in use.'' Today's FRM formalizes the requirement that manufacturers must develop unique fittings, and prohibits the use of anything but the manufacturer-specified fittings with alternative refrigerants. In cases where the submitter is not also the manufacturer, the submitter must coordinate with the manufacturer to develop unique fittings for new refrigerants. This will minimize the likelihood of different fittings being submitted for the same refrigerant.

The third and fourth issues both relate to EPA's function as a clearinghouse for information about fittings and label background colors. Initially, it appeared there would be very few alternatives for this end-use. At that time, EPA envisioned that manufacturers of alternative refrigerants would communicate with each other to prevent duplication of fittings or label colors. However, a broader range of alternatives has been developed. In response to the questions from commenters about how submitters are to know whether their fittings or colors are indeed unique, today's final rule formalizes an expanded clearinghouse role for EPA, in which the Agency maintains a library of unique fittings and label specifications, and provides information on these to the regulated community and the public upon request. To make this possible, this final rule requires that, for new refrigerants submitted for the MVACS end-use, fitting specifications, a complete set of sample fittings, and a sample label must be submitted at the same time as the rest of the information detailed in the March 18, 1994 SNAP rule (59 FR 13044). Even if a submission includes information required in 1994 FRM, it will be considered incomplete until the fitting specifications and sample fittings and labels are sent to EPA. As explained in the March 18, 1994 final rule, a submission must be complete before the countdown of the 90-day moratorium on sale begins. Thus, the prohibition against sale of a new refrigerant will not end until 90 days after the date that EPA determines the submission is complete. EPA will send a letter to the submitter indicating that a complete submission has been received and specifying the start of the 90-day period.

Finally, EPA will create a package of information about all existing fittings and labels that will be available to the public. This package will allow developers of new refrigerants to avoid duplication with existing fittings or label background colors. It will also allow EPA to consult industry experts to ensure that current refrigerants are in fact being used with unique fittings. When developing unique fittings, manufacturers should consider the possibility of cross-threading using normal force and standard tools. EPA will propose more specific guidelines for fitting design in a future NPRM.

One commenter noted that although EPA proposed requiring barrier hoses for several refrigerants, this additional use condition was inadvertently omitted from the proposed regulatory language. EPA has corrected this error in today's final rule.

Several commenters requested that EPA not allow the sale of a new refrigerant prior to EPA's final determination and imposition of use conditions. This issue is related to the concern about the time delay between EPA's receipt of notification and final rulemaking. Under section 612 of the Clean Air Act, manufacturers of substitutes must submit them to EPA 90 days prior to selling them. However, the Act does not give EPA authority to prevent sale once the 90 days have expired. Therefore, EPA cannot prevent new products from entering the market, even in the absence of a final determination under the SNAP program. The new process, whereby EPA will impose standard use conditions on new MVAC refrigerants via Notice of Acceptability, will address this concern by shortening the time between initial submission and final determination. In addition, submissions that do not contain fittings specifications, samples, and labels will be incomplete, lessening the possibility that new materials will be widely available before manufacturers have yet identified unique fittings.

One commenter suggested specific criteria for determining whether fittings are unique. EPA believes this is a valuable suggestion, and will propose such criteria in a separate NPRM.

One commenter expressed concern that EPA is allowing the use of substitutes that contain ozone-depleting HCFCs and global warming gases such as certain HCFCs and HFCs. It is important to note that, in accordance with guidelines set forth in the March 18, 1994 SNAP rule, EPA conducts a comparative risk screen comparing new alternatives both to the ozone-depleting substances they are replacing and to other alternatives available for the same end-use. EPA has long maintained that HCFCs play an important role in the transition away from CFCs. Among the HCFCs being used in MVAC refrigerants, HCFC–142b has the highest ozone depletion potential (ODP) of 0.06. EPA believes that this is environmentally acceptable since the new refrigerants are replacing CFC–12, with a much higher ODP of 1.0. Similarly, the global warming potentials (GWP) of various components are lower that that of CFC–12. EPA continues, however, to encourage the development of zero-ODP and low-GWP refrigerants. In addition, all SNAP reviews to date, and all future reviews, consider both ODP and GWP, along with toxicity, flammability, and ecological effects.

Several commenters expressed concern that the large number of alternative MVAC refrigerants would result in excessive venting because of a lack of adequate recovery equipment. Under sections 608 and 609 of the Clean Air Act, it is illegal to vent any alternative refrigerant. In addition, several manufacturers have established programs to accept used refrigerant for reclamation or disposal. EPA urges industry to develop similar mechanisms to ensure that the venting prohibition is observed. EPA will monitor the effect of the alternatives on the contamination of the CFC–12 supply, as well as the extent of cross-contamination of the substitutes themselves. If appropriate, EPA will propose additional requirements for the use of substitutes in a future NPRM.

Several commenters requested that EPA require that manufacturers provide certain types of information to all end-users. These additional requirements are beyond the scope of the NPRM. EPA will consider proposing such requirements in a future NPRM.

One commenter requested that certain information be removed from the required labels applied to systems using alternative refrigerants, noting that the label is intended for use by service personnel, not the consumer. EPA disagrees, and believes that this label contains important information for the consumer. Despite a comprehensive review of environmental and human health risks posed by new refrigerants, many alternatives have undergone only limited performance testing. The label

gives the car owner details about who performed the retrofit, what materials were used, and whether the product contains a chemical that will damage the ozone layer. Finally, in the case of flammable refrigerants, it is especially important to call attention to that characteristic. Flammability information will alert both service personnel and car owners who may perform limited servicing of their own vehicles to the presence of a flammable refrigerant.

The commenter also reiterated a request to include a model label. EPA believes that many possible configurations and layouts would satisfy the labeling requirement, and does not believe that prescribing such a layout would be beneficial. Any label that contains the required information, and features a unique color, will serve to inform both service personnel and car owners. The existence of an EPA information package available to the public which will show colors and configurations of existing labels will assure that each new substitute's label has a unique background color. Labels used for refrigerants already listed as acceptable subject to use conditions will be in this package, and may be used as models by future submitters.

Finally, one commenter requested clarification on the definition of ''barrier hoses.'' In general, this term means a hose that has a protective layer specifically designed to reduce refrigerant leakage.

2. Acceptable Subject to Use Conditions

a. CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New. EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth transition to the use of substitutes strongly depends on the continued purity of the recycled CFC–12 supply. In order to prevent cross-contamination and preserve the purity of recycled refrigerants, EPA is imposing conditions on the use of all motor vehicle air conditioning refrigerants. For the purposes of this final rule, no distinction is made between ''retrofit'' and ''drop-in'' refrigerants; retrofitting a car to use a new refrigerant includes any and all procedures that result in the air conditioning system using a new refrigerant.

EPA has already applied the following requirements to several refrigerants. The June 13, 1995 final rule applied them to HFC–134a, FRIGC (HCFC Blend Beta), and R–401C. The May 22, 1996 final rule applied them to Freezone and Ikon. With today's final rule, EPA applies the use conditions to all refrigerants still awaiting final determinations, and all future refrigerants submitted for use in MVACs. With these conditions in place in general, consumers and repair shops will be protected from cross-contamination and potential system damage. In addition, by reducing the delay between submission and a final determination, EPA minimizes the possibility that a refrigerant will gain widespread use without meeting the use conditions.

When retrofitting a CFC–12 motor vehicle air conditioning system to use any substitute refrigerant, the following conditions must be met:

• Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be designed by the manufacturer of the refrigerant. The manufacturer is responsible to ensure that the fittings meet all of the requirements listed below, including testing according to SAE standards. These fittings must be designed to mechanically prevent cross-charging with another refrigerant, including CFC–12.

The fittings must be used on all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant and designed by the manufacturer of the refrigerant. Using a refrigerant with a fitting designed by anyone else, even if it is different from fittings used with other refrigerants, is a violation of this use condition. Using an adapter or deliberately modifying a fitting to use a different refrigerant is a violation of this use condition.

Fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

—When existing CFC–12 service ports are retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.

—All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.

—In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant.

—All CFC–12 service ports not retrofitted with conversion assemblies shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

• When a retrofit is performed, a label must be used as follows:

—The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

* The name and address of the technician and the company performing the retrofit;

* The date of the retrofit;

* The trade name, charge amount, and, where it exists, the ASHRAE numerical designation of the refrigerant;

* The type, manufacturer, and amount of lubricant used;

* If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter'';

* If the refrigerant displays flammability limits as measured by ASTM E681, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.'' This precaution does not apply to unacceptable refrigerants, because it is illegal to replace CFC–12 with such products.

—The label must be large enough to be easily read and must be permanent.

—The background color must be unique to the refrigerant.

—The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

—In accordance with SAE J639, testing of labels must meet ANSI/UL 969–1995.

—Information on the previous refrigerant that cannot be covered by the new label must be rendered permanently unreadable.

• No substitute refrigerant may be used to ''top-off'' a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under Section 609 of the CAA prior to charging with a substitute.

All new refrigerants will be submitted with specifications and samples for all

fittings and samples of labels. EPA will review the fittings and test for cross-connections between the new fitting and existing fittings for already listed refrigerants. At the same time, EPA will compare the background color of the sample label to those of other already listed refrigerants. If the fittings are unique and cannot be mechanically cross-threaded, and the label color is unique to that refrigerant, EPA will issue a letter to the manufacturer confirming that the submission is complete. This confirmation letter will identify the term of the 90-day sales moratorium required by section 612 of the Clean Air Act, during which the refrigerant may not be sold or used. EPA will issue a Notice of Acceptability for the new refrigerant as soon as possible, which will impose the requirements described above. EPA will then update a package of materials containing specifications for existing fittings. This package will be provided to manufacturers of new refrigerants and others who request it, to lower the risk of duplicating fittings already in use.

If the fittings or the label color are not, in fact, unique, EPA will issue a letter to the manufacturer indicating that the submission is not complete. Because the submission is incomplete, the notification requirement has not been satisfied, and the 90-day clock does not begin to run until the submitter repairs any identified defect and receives subsequent notification in a letter from EPA that the submission is complete. This prohibition does not require further rulemaking, because it derives from the notification requirements promulgated in the final SNAP rule of March 18, 1994 (59 FR 13044).

EPA will take enforcement action for any violation of these provisions, including (a) selling a substitute prior to 90 days after receipt of a letter from EPA certifying the completeness of a submission, (b) using a refrigerant without changing the fittings, applying a new label, and removing the original CFC–12 charge, or (c) using a refrigerant with fittings other than those designed by the refrigerant manufacturer. The intent of these conditions is to minimize the likelihood of cross-contamination and attendant damage to automotive air conditioners and recycling equipment, to reduce consumer confusion and in general to minimize the difficulty of the transition away from CFC–12.

Furthermore, it is important to understand the meaning of ''acceptable subject to use conditions.'' EPA believes such refrigerants, when used in accordance with the conditions, are safer on an overall basis for human health and the environment than CFC–12. This *does not imply* that the refrigerant will work in any specific system, nor does it mean that the refrigerant is perfectly safe regardless of how it is used. Nor does EPA approve or endorse any one refrigerant that is acceptable subject to use conditions over others also in that category.

Note also that EPA does not test refrigerants for performance characteristics. Rather, a SNAP review includes information submitted by manufacturers and various independent testing laboratories. Therefore, it is important to discuss any new refrigerant with the automaker, the refrigerant manufacturer and the shop technician before deciding to use it, and in particular to determine what effect using a new refrigerant will have on a system warranty. Before choosing a new refrigerant, users should also consider whether it is readily and widely available, and technicians should consider the cost of buying recovery/recycling equipment for that refrigerant. Additional questions about purchasing CFC–12 substitutes are addressed in EPA fact sheets titled: ''Questions to Ask Before You Purchase an Alternative Refrigerant'' and ''Choosing and Using Alternative Refrigerants for Motor Vehicle Air Conditioning.''

(1) All Refrigerants

All refrigerants listed in future notices as being ''acceptable subject to use conditions'' as substitutes for CFC–12 in retrofitted and new motor vehicle air conditioners are subject to the use conditions described above, in addition to the requirement that specifications for the fittings similar to those found in SAE J639 and samples of all fittings and labels described above must be submitted to EPA at the same time as the initial SNAP submission, or the submission will be considered incomplete. Note: substitutes for which submissions are incomplete may not be sold or used, regardless of other acceptability determinations, until 90 days after receipt of a letter from EPA notifying the submitter that the submission is complete.

In the March 18, 1994 FRM (59 FR 13044), EPA established that the public would be informed via a Notice when substitutes are added to the acceptable list. If EPA intended to place any restrictions, including use conditions, on the use of a substitute, that determination would require full notice-and-comment rulemaking. In this FRM, EPA modifies that approach for motor vehicle air conditioning systems (MVACs).

As explained above, EPA is concerned about potential cross-contamination because of the large number of MVAC refrigerants. In this FRM, EPA imposes the same use conditions on all future MVAC refrigerants as were imposed on HFC–134a and HCFC Blend Beta (FRIGC FR–12) on June 13, 1995 (60 FR 31092), and on HCFC Blend Delta (Freezone) and Blend Zeta (Ikon-12) on May 22, 1996 (60 FR 51383). Because of EPA's interest in timely review of substitute refrigerants, EPA believes it is appropriate that these use conditions be applied to all future refrigerants for use in motor vehicle air conditioning, thereby removing the requirement for future notice-and-comment rulemaking on this issue. In the future, EPA will add refrigerants to the list of automotive substitutes that are acceptable subject to use conditions described above without notice-and-comment rulemaking. Such action will occur in future Notices of Acceptability. If further restrictions are necessary for a specific refrigerant (for example, if a substitute is found unacceptable), EPA will still carry out such action via notice-and-comment rulemaking. However, EPA may choose to list the substitute as acceptable subject to the use conditions listed above while proceeding with notice-and-comment rulemaking to impose other restrictions.

(2) R–406A

R–406A, which consists of HCFC–22, HCFC–142b, and isobutane, is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above, in addition to the requirement that retrofitting a CFC–12 MVAC system to R–406A must include replacing non-barrier hoses with barrier hoses. Because HCFC–22 and HCFC–142b contribute to ozone depletion, and will be phased out of domestic production in the future, this blend is considered a transitional alternative. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to this blend. HCFC–142b has one of the highest ODPs among the HCFCs. The GWPs of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b and isobutane are flammable, the blend is not. After significant leakage, however, this blend may become weakly flammable. The manufacturer has performed a risk assessment that demonstrates that it can be used safely in this end-use.

There is concern that HCFC–22 may seep out of traditional hoses. Thus, at the manufacturer's suggestion, EPA is imposing an additional condition that barrier hoses must be used with R–

406A. Note that there may also be concern about the compatibility of HCFC–22 with seals commonly found in CFC–12 systems. Consult with the refrigerant manufacturer, the manufacturer of the car, and service personnel about this potential problem. R–406A is sold under the trade names ''GHG'' and ''McCool.''

The R–406A submission contained the first risk assessment that attempted to quantify the additional risk posed by using a refrigerant that is nonflammable but that may fractionate to a flammable state. This assessment was performed by a nationally known laboratory. Note that R–406A is not flammable as blended, so it poses zero flammability risk to service technicians who charge it into a system, and to the vast majority of users and subsequent technicians. Even when approximately 80% of the normal charge leaks out, the remaining components are only marginally flammable. It is unlikely such large leakage would occur before servicing. After an 80% leak, a match brought near the leak will ignite the escaping vapors, but the flame will extinguish on its own when the match is withdrawn.

EPA did not receive any comments on this risk assessment, which concluded that an additional 0.018 injuries could occur per million vehicles annually. This value is extremely low. In addition, even assuming the assessment is in error by a factor of 100, the resultant potential for injury would be very low.

(3) HCFC Blend Lambda

HCFC Blend Lambda, which consists of HCFC–22, HCFC–142b, and isobutane, is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above, in addition to requirement that retrofitting a CFC–12 MVAC system to this blend must include replacing non-barrier hoses with barrier hoses. Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, this blend will be used primarily as a retrofit refrigerant. However, HCFC Blend Lambda is acceptable for use in new systems, subject to the same use conditions. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to this blend. HCFC–142b has one of the highest ODPs among the HCFCS. The GWPs of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b and isobutane are flammable, the blend is not. After significant leakage, this blend may become weakly flammable. However, this blend contains more HCFC–22 and less of the two flammable components than R–406A, and therefore should be at least as safe to use as R–406A. In addition, as discussed above in the R–406A section, the manufacturer has performed a risk assessment that demonstrates that R–406A can be used safely in this end-use. Finally, as stated above, this blend contains even lower percentages of flammable components than R–406A.

There is concern that HCFC–22 will seep out of traditional hoses. Thus, at the manufacturer's suggestion, EPA is imposing an additional condition that barrier hoses must be used with R–406A. Note that there may also be concern about the compatibility of HCFC–22 with seals commonly found in CFC–12 systems. Consult with the refrigerant manufacturer, the manufacturer of the car, and service personnel about this potential problem. This blend is sold under the trade name ''GHG–HP.''

(4) HCFC Blend Xi, HCFC Blend Omicron

HCFC Blend Xi and HCFC Blend Omicron, both of which consist of HCFC–22, HCFC–124, HCFC–142b, and isobutane, are acceptable as substitutes for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above, in addition to the requirement that retrofitting a CFC–12 MVAC system to these blends must include replacing non-barrier hoses with barrier hoses. Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, these blends will be used primarily as retrofit refrigerants. However, these blends are acceptable for use in new systems, subject to the same use conditions. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to these blends. HCFC–142b has one of the highest ODPs among the HCFCs. The GWPs of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b and isobutane are flammable, these blends are not. In addition, testing on these blends has shown that they do not become flammable after leaks. EPA is concerned that HCFC–22 will seep out of traditional hoses. Thus, EPA is imposing an additional condition that barrier hoses must be used with HCFC Blend Xi and HCFC Blend Omicron. Note that there may also be concern about the compatibility of HCFC–22 with seals commonly found in CFC–12 systems. Consult with the refrigerant manufacturer, the manufacturer of the car, and service personnel about this potential problem. HCFC Blend Xi is being sold under the trade names ''GHG–X4,'' ''Autofrost,'' and ''Chill-It, '' and HCFC Blend Omicron is being sold under the trade names ''Hot Shot'' and ''Kar Kool.''

(5) FREEZE 12

FREEZE 12, which consists of HCFC–142b and HFC–134a, is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above. Because HCFC–142b contributes to ozone depletion, and will be phased out of domestic production in the future, this blend is considered a transitional alternative. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to this blend. Its production will be phased out according to the accelerated schedule (published 12/10/93, 58 FR 65018). The GWP of HFC–134a is 1300. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable. Although this blend was not included in the original NPRM, this FRM establishes a new procedure whereby EPA will list new substitutes for CFC–12 in MVACs in Notices, which do not require formal notice-and-comment rulemaking. This blend was submitted to EPA between the NPRM and this final rule. It would be inconsistent to allow this blend to be sold and used without adhering to the use conditions applied to all other MVAC alternative refrigerants while developing a Notice. Therefore, EPA is including this blend in the FRM instead of in a future Notice.

B. Solvent Cleaning

1. Response to Public Comment

EPA received a number of comments on the solvent cleaning decisions listed in today's Final Rule. One commenter stated that the EPA should set workplace standards such as the one proposed for HFC–4310mee based only on toxicity and should not consider standards set by other regulatory bodies such as the Occupational Safety and Health Administration (OSHA). This approach would contradict the precedent set through other SNAP listings, since the purpose of the SNAP program is to defer to the existing regulatory structure, not to replace or recreate it.

The Agency received conflicting comments on the decision to list HFC–4310mee and perfluoropolyethers (PFPEs) as acceptable subject to restrictions. Several commenters stated

that these chemicals should not be approved since other chemicals exist that offer the same performance without the global warming effects. Other commenters claimed that although PFPEs were necessary for industrial uses, they concurred with the decision to restrict their use based on global warming concerns. In response, the Agency notes that the global warming potential of HFC–4310mee is significantly smaller than that of CFC–113 and that its toxicity can be readily managed through use of well-designed equipment. As a result, the Agency is proceeding with the listing determination for HFC–4310mee as proposed. With respect to PFPEs, the Agency concurs with commenters that the global warming potential of these chemicals must be taken into account in the listing decision and notes that the listing decision restricts PFPEs to narrowed uses only where no other alternative exists.

The Agency received more than 20 comments on the listing decision for HCFC–141b. Four commenters requested an extension of the permissible use period for HCFC–141b beyond January 1, 1997. The remaining commenters either endorsed the one-year extension or opposed any extension outright. The comments did not provide the necessary technical information for EPA to evaluate the need for an extension, and the Agency, as a result, initiated its own assessment of the need for an extension. This analysis indicated that industry experts and the majority of solvent users themselves believed that a phaseout of 141b use in solvent cleaning was possible by the end of 1996, and the Agency is therefore proceeding with the extension as it had been proposed.

2. Acceptable Subject to Use Conditions

a. Electronics Cleaning. (a) HFC–4310mee. *HFC–4310mee is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in electronics cleaning subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.* HFC–4310mee is a new chemical that completed review last year by EPA's Premanufacture Notice Program under the Toxic Substances Control Act. This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. It does have some potential to contribute to global warming since its 100-year Global Warming Potential (GWP) is 1600 and it has a 20.8 year lifetime. However, the GWP and lifetime for HFC–4310 are both lower than the GWP and lifetime for CFC–113 and significantly lower than for PFCs, which are other substitutes for ozone-depleting solvents.

HFC–4310mee does exhibit some toxicity in tests reviewed by EPA, and causes central nervous system effects at relatively low levels. However, these effects are reversible and cease once chemical exposure is eliminated. Review under the SNAP program and the PMN program determined that a time-weighted average workplace exposure standard of 200 ppm and a workplace exposure ceiling of 400 ppm would adequately protect of human health and that companies could readily meet these exposure limits using the types of equipment specified in the product safety information provided by the chemical manufacturer.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

B. Precision Cleaning. (a) HFC–4310mee. *HFC–4310mee is an acceptable substitute for CFC–113 and methyl chloroform in precision cleaning subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.* The reasoning behind this determination is presented above in the section on electronics cleaning.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91–596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91–596.

3. Acceptable Subject to Narrowed Use Limits

a. Electronics Cleaning. (a) Perfluoropolyethers. *Perfluoropolyethers are acceptable substitutes for CFC–113 and MCF in the electronics cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.* These chemicals have global warming characteristics comparable to the perfluorocarbons and, as a result, are subject to the same restrictions. A full discussion of the global warming concerns and related risk management decision can be found under 59 FR 13044 (March 18, 1994, at p. 13094)

b. Precision Cleaning. (a) Perfluoropolyethers. *Perfluoropolyethers are acceptable substitutes for CFC–113 and MCF in the precision cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.* These chemicals have global warming characteristics comparable to the perfluorocarbons and, as a result, are subject to the same restrictions. A full discussion of the global warming concerns and related risk management decision can be found under 59 FR 13044 (March 18, 1994, at p. 13094)

4. Unacceptable

a. Electronics Cleaning. (a) HCFC–141b. *HCFC–141b is unacceptable as a substitute for CFC–113 and MCF in electronics cleaning under existing rules (59 FR 13044; March 18, 1994); today's rule amends this unacceptability determination and lists existing uses of HCFC–141b as acceptable in high-performance electronics cleaning until January 1, 1997.* This determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in high-performance electronics and only for one year. The extension does not affect the production phaseout date for HCFC–141b, which is January 1, 2003.

The extension should not be viewed as a reason to postpone replacement of 141b. Alternatives exist for nearly all solvent cleaning applications of 141b, and the principal reason for the extension is the long lead time necessary to test, select, and implement a chosen substitute in high-performance applications where stringent qualifications testing is the norm.

Existing regulations affect 141b in two ways. Under the production phaseout for ozone-depleting substances (ODS), 141b has a phaseout date of January 1, 2003. This regulation, developed under section 604 of the Clean Air Act (CAA), states that chemical manufacturers will no longer be allowed to manufacture 141b as of that date (40 CFR Part 82, Subpart G, Appendix A). HCFC–141b is also subject to a number of use restrictions relevant to solvent cleaning operations. According to regulations developed under section 612 of the CAA—the SNAP program—the only companies allowed to use 141b in solvent cleaning equipment are existing users. Existing users were defined in the March 1994 determination as companies

who had 141b-based solvent cleaning equipment in place as of April 18, 1994. No new substitutions into 141b for solvent cleaning were permitted, and even existing users could use 141b only until January 1, 1996. This use ban date for existing users is the subject of the extension in today's final rule. HCFCs, including 141b, are also covered by other use restrictions such as the nonessential ban (section 610) and labeling (section 611). The 610 and 611 regulations are not discussed here. If you need more information about these regulations, call the Stratospheric Ozone Protection Hotline at 1–800–296–1996.

Many users and vendors of 141b have requested that the Agency postpone the effective date of the use ban under SNAP for solvent cleaning beyond January 1, 1996. In response to these petitions, EPA is offering a one-year use extension. Note, however, that the only change is that existing uses in high-performance electronics cleaning would be permitted for an additional year until January 1, 1997. (Precision cleaning uses are also extended in today's rulemaking, but are listed in the next section.) ''High-performance electronics'' would include high-value added electronic components for aerospace, military, or medical applications such as hybrid circuits or other electronics for missile guidance systems. The existing policy of no new substitutions into 141b is maintained and uses of 141b in metals cleaning and basic electronics cleaning are all expected to have ended as of January 1, 1996. These banned applications include cleaning of basic, formed metal parts and high-volume electronics cleaning such as components for consumer electronics.

An important distinction is that ''solvent cleaning'' in the SNAP program is defined to cover replacements of ODS in industrial cleaning, either in vapor degreasing or cold cleaning. It does not include aerosol applications, which are covered separately under the SNAP program. It also does not include other solvent cleaning uses of OZONE-DEPLETING SUBSTANCES (ODS) such as in textile cleaning, dry cleaning, flushing of oxygen systems or automotive air conditioning systems, or hand wiping. This means, for instance, that the use ban date does not apply to 141b used for hand wiping. However, users should understand that although these uses are not currently governed by the SNAP program, responsible corporate policy would be to implement alternatives to ODS where possible. Additionally, SNAP reserves the right to regulate any use where significant environmental differences exist in the choice of alternatives. To minimize the paperwork burden, no reporting is required for companies that qualify for an extension.

The extension is not an excuse to delay selecting an alternative. The principal reason for extending the permissible period of use for 141b in these narrowed applications is not that alternatives do not exist, but that users need more time to qualify and implement alternatives. Even with the extension, uses of 141b in the specified applications will only be permitted for another 12 months beyond the current use ban date. This additional time can only be used productively if users begin now to select, test, order equipment and materials, etc.

The search for alternatives should include not just aqueous and semi-aqueous alternatives, but also recently developed cleaning chemicals and technologies. Information on vendors of substitutes is available from the Stratospheric Ozone Protection Hotline. Call 1–800–296–1996 and ask for the Vendor List for Precision Cleaning. In addition, EPA has more detailed information available on topics such as retrofitting 141b degreasers to use HFCS or on cleaning of medical devices.

Users and vendors of HCFC–141b had asked the Agency to extend the permissible use date beyond January 1, 1997. In its analysis of the extension for 1996, the Agency gave serious consideration to the need for additional time for HCFC–141b use. However, public comments on the rule and the Agency's own analysis strongly indicated that many alternatives are now available that could meet the performance needs of all current HCFC–141b users. Many of the users had been waiting for the introduction of a particular class of specialty chemicals, the hydrofluoroethers, which was originally planned for 1997. The accelerated introduction of these chemicals, combined with the availability of other cleaning alternatives such as aqueous processes, HFC–4310, HCFC–225, isopropyl alcohol in explosion-proof equipment, volatile methyl siloxanes, and innovative uses of carbon dioxide and supercritical fluids, means that 141b users now have a multitude of options to choose from.

The Agency also considered the possibility that further lead time was needed to qualify the new alternatives, but again, the Agency's own analysis and the comments received on the proposed one-year extension for 1996 demonstrated that the Agency had provided sufficient notice to HCFC–141b users regarding the impending use restrictions on this HCFC.

b. Precision Cleaning. (a) HCFC–141b. HCFC–141b is unacceptable as a substitute for CFC–113 and MCF in precision cleaning under existing rules (59 FR 13044; March 18, 1994); today's rule amends this unacceptability determination and lists existing uses of HCFC–141b as acceptable in precision cleaning until January 1, 1997. This determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in precision cleaning and only for one year. The extension does not affect the production phaseout date for HCFC–141b, which is January 1, 2003.

For a full discussion of the rationale for extension, please see the previous section on electronics cleaning. This discussion applies in-full to precision cleaning, which for purposes of this extension is defined to include cleaning of devices of high-value added, precision-engineered parts such as precision ball bearings for navigational devices, or other components for aerospace, medical or medical uses.

C. Aerosols

1. Response to Public Comment

Several commenters stated that perfluorocarbons and perfluoropolyethers should not be approved since other chemicals exist that offer the same performance without the global warming effects. The Agency concurs with commenters that the global warming potential of these chemicals must be taken into account in the listing decision. However, the Agency believes that the need to provide a CFC solvent alternative that offers both non-flammability and low toxicity supports the Agency's SNAP decision on PFCs and PFPEs for aerosols. The newer solvents mentioned in the comments offer significant commerical promise, but testing to determine their full ability to substitute for CFCs and MCF has not yet been completed. As a result, the Agency is proceeding with the listing decision for PFCs and PFPEs as a narrowed use as proposed.

2. Acceptable Subject to Narrowed Use Limits

a. Solvents. (a) Perfluorocarbons. Perfluorocarbons (PFCs) are acceptable substitutes for CFC–113 and MCF for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements. EPA is permitting the use of PFCs in aerosols

applications despite their global warming potential since so few nontoxic, nonflammable solvents exist and this sector presents a high probability of worker exposure and safety risks. PFCs are already subject to similar restrictions in the solvents cleaning sector due to global warming concerns (59 FR 13044, March 18, 1994). This decision will allow users to select PFCs in the event of performance or safety concerns while guarding against widespread, unnecessary use of these potent greenhouse gases.

(b) Perfluoropolyethers. Perfluoropolyethers (PFPEs) are acceptable substitutes for CFC–113 and MCF for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements. EPA is permitting the use of perfluoropolyethers in aerosols applications despite their global warming potential since so few nontoxic, nonflammable solvents exist and this sector presents a high probability of worker exposure and safety risks. PFCs, which have global warming potentials comparable to the PFPEs, are already subject to similar restrictions in the solvents cleaning sector due to global warming concerns (59 FR 13044, March 18, 1994). This decision will allow users to select perfluoropolyethers in the event of performance or safety concerns while guarding against widespread, unnecessary use of these potent greenhouse gases.

3. Unacceptable

a. Propellants. (a) SF6. SF6 is an unacceptable substitute for CFC–11, CFC–12, HCFC–22 and HCFC–142b in aerosol applications. This chemical has been of commercial interest as a compressed gas propellant substitute for ozone-depleting propellants. However, it has an atmospheric lifetime of 3,200 years and a 100-year global warming potential (GWP) of 24,900. CFC–11, in contrast, has a lifetime of 50 years and a GWP of 4,000. Formulators have indicated to EPA that compressed gases such as $C0_2$ would work equally well to replace use of CFC–11 and other ozone-depleting propellants and could be formulated at similar or lower cost. $C0_2$ has a GWP of 1. $C0_2$ and other compressed gases such as nitrous oxide are already commercially popular due to low flammability and price and have have been used extensively since the phaseout of CFCs in aerosols in 1978 in a wide variety of products such as spray pesticides, canned whipped cream, and cleaning products. Compressed gases were approved under the SNAP program as substitute propellants in March 1994.

4. Amendment to List of Substances Being Replaced

EPA today is adding CFC–12 and CFC–114 to the list of aerosol propellants being replaced by substitutes reviewed under SNAP. This will ensure that companies replacing these CFCS in their products will be able to adhere to SNAP rulings in the replacement process. The environmental trade-offs associated with replacing CFC–12 and CFC–114 versus CFC–11 do not change significantly, since the ODPs for all the CFCs are roughly the same.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

Pursuant to the terms of Executive Order 12866, OMB notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order, and EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires EPA to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing any small governments that may be significantly or uniquely affected by the rule. Section 205 requires that regulatory alternatives be considered before promulgating a rule for which a budgetary impact statement is prepared. The Agency must select the least costly, most cost-effective, or least burdensome alternative that achieves the rule's objectives, unless there is an explanation why this alternative is not selected or this alternative is inconsistent with law.

Because this rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. Because costs of the SNAP requirements as a whole are expected to be minor, it is unlikely to adversely affect small businesses. In fact, to the extent that information gathering is more expensive and time-consuming for small companies, this rule may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitutes available.

D. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA. The OMB Control Number is 2060–0350. A copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260–2740. The reasons for these information requirements are explained in the section on automobile air conditioning (III.A.2.a). The requirements became

mandatory under section 612 of the Clean Air Act when the ICR was approved by OMB on September 11, 1996. The ICR was previously subject to public notice and comment prior to OMB approval. EPA, therefore finds ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. For the same reasons, EPA also finds that there is good cause under 5 U.S. C. 553(d)(3). Accordingly, EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB. This amendment updates the table to accurately display those information requirements contained in this final rule. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320. EPA is applying the information requirements described above to this rulemaking, previous SNAP rulemakings, and future SNAP rulemakings. Accordingly, these paperwork requirements shall apply to SNAP decisions described in rules published on June 13, 1995 (60 FR 31092) and May 22, 1996 (61 FR 25585), in addition to this rule.

EPA estimates that the burden of learning about the requirements will be approximately ten minutes, and that filling out each required label itself will take approximately five minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. EPA estimates the capital costs associated with the design, printing, and distribution of labels to be $500,000 per year. Refer to EPA ICR 1774.01 for further details.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

V. Submission to Congress and the General Accounting Office

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).

VI. Additional Information

For copies of the comprehensive SNAP lists or additional information on SNAP please contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the Federal Register on March 18, 1994 (59 FR 13044). Federal Register publications can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. All SNAP-related NPRMS, FRMs, and Notices may also be retrieved from EPA's Ozone Depletion World Wide Web site, at http://www.epa.gov/docs/ozone/title6/snap/.

List of Subjects

40 CFR Part 9

Reporting and recordkeeping requirements.

40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: October 8, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR parts 9 and 82 are amended as follows:

1. In part 9:

a. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

b. Section 9.1 is amended by adding a new entry to the table under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Protection of Stratospheric Ozone	
82.180	2060–0350
* * * * *	

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. Sec. 7414, 7601, 7671–7671q.

2. Section 82.180 is amended by revising paragraph (a)(8)(ii) to read as follows:

§ 82.180 Agency review of SNAP submissions.

(a) * * *

(8) * * *

(ii) *Communication of Decision to the Public.* The Agency will publish in the Federal Register periodic updates to the list of the acceptable and unacceptable alternatives that have been reviewed to date. In the case of substitutes proposed as acceptable with use restrictions, proposed as unacceptable or proposed for removal from either list, a rulemaking process will ensue. Upon completion of such rulemaking, EPA will publish revised lists of substitutes acceptable subject to use conditions or narrowed use limits and unacceptable substitutes to be incorporated into the Code of Federal Regulations. (See Appendices to this subpart.)

* * * * *

3. Subpart G is amended by adding the following Appendix D to read as follows:

Subpart G—Significant New Alternatives Policy Program

* * * * *

Appendix D to Subpart G—Substitutes Subject to Use Restrictions and Unacceptable Substitutes

Summary of Decisions

Refrigeration and Air Conditioning Sector Acceptable Subject to Use Conditions

R–406A/''GHG''/''McCool'', ''GHG–HP'', ''GHG–X4''/''Autofrost''/''Chill-It'', and ''Hot Shot''/''Kar Kool'' are acceptable substitutes for CFC–12 in retrofitted motor vehicle air conditioning systems (MVACs) subject to the use condition that a retrofit to these refrigerants must include replacing non-barrier hoses with barrier hoses.

For all refrigerants submitted for use in motor vehicle air conditioning systems, subsequent to the effective date of this FRM, in addition to the information previously required in the March 18, 1994 final SNAP rule (58 FR 13044), SNAP submissions must include specifications for the fittings similar to those found in SAE J639, samples of all fittings, and the detailed label described below at the same time as the initial SNAP submission, or the submission will be considered incomplete. Under section 612 of the Clean Air Act, substitutes for which submissions are incomplete may not be sold or used, regardless of other acceptability determinations, and the prohibition against sale of a new refrigerant will not end until 90 days after EPA determines the submission is complete.

In addition, the use of a) R–406A/''GHG''/''McCool'', ''GHG–HP'', ''GHG–X4/''Autofrost''/''Chill-It'', ''Hot Shot''/''Kar Kool'', and ''FREEZE 12'' as CFC–12 substitutes in MVACs, and b) all refrigerants submitted for, and listed in, subsequent Notices of Acceptability as substitutes for CFC–12 in MVACs, must meet the following conditions:

1. Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be designed by the manufacturer of the refrigerant. The manufacturer is responsible to ensure that the fittings meet all of the requirements listed below, including testing according to SAE standards. These fittings must be designed to mechanically prevent cross-charging with another refrigerant, including CFC–12.

The fittings must be used on all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant and designed by the manufacturer of the refrigerant. Using a refrigerant with a fitting designed by anyone else, even if it is different from fittings used with other refrigerants, is a violation of this use condition. Using an adapter or deliberately modifying a fitting to use a different refrigerant is a violation of this use condition.

Fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

a. When existing CFC–12 service ports are retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.

b. All conversion assemblies and new service ports must satisfy the vibration testing requirements of section 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.

c. In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant.

d. All CFC–12 service ports not retrofitted with conversion assemblies shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

2. When a retrofit is performed, a label must be used as follows:

a. The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

i. The name and address of the technician and the company performing the retrofit.

ii. The date of the retrofit.

iii. The trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant.

iv. The type, manufacturer, and amount of lubricant used.

v. If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter''.

vi. If the refrigerant displays flammability limits as measured according to ASTM E681, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.''

b. The label must be large enough to be easily read and must be permanent.

c. The background color must be unique to the refrigerant.

d. The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

e. In accordance with SAE J639, testing of labels must meet ANSI/UL 969–1991.

f. Information on the previous refrigerant that cannot be covered by the new label must be rendered permanently unreadable.

3. No substitute refrigerant may be used to ''top-off'' a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

SOLVENT CLEANING SECTOR

[Acceptable Subject to Use Conditions Substitutes]

Application	Substitute	Decision	Conditions	Comments
Electronics Cleaning w/CFC–113 and MCF.	HFC–4310mee	Acceptable	Subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.	
Precision Cleaning w/CFC–113 and MCF.	HFC–4310mee	Acceptable	Subject to a 200 ppm time-weighted average workplace exposure standard and a 400 ppm workplace exposure ceiling.	

SOLVENT SECTOR

[Acceptable Subject to Narrowed Use Limits]

Application	Substitute	Decision	Comments
Electronics Cleaning w/ CFC–113 and MCF.	Perfluoropolyethers	Perfluoropolyethers are acceptable substitutes for CFC–113 and MCF in the precision cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFPEs have similar global warming profile to the PFCs, and the SNAP decision on PFPEs parallels that for PFCs.
Precision Cleaning w/ CFC–113 and MCF.	Perfluoropolyethers	Perfluoropolyethers are acceptable substitutes for CFC–113 and MCF in the precision cleaning sector for high performance, precision-engineered applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFPEs have similar global warming profile to the PFCs, and the SNAP decision on PFPEs parallels that for PFCs.

Unacceptable Substitutes

End-use	Substitute	Decision	Comments
Electronics Cleaning w/ CFC–113 and MCF.	HCFC–141b	Extension of existing unacceptability determination to grant existing uses in high-performance electronics permission to continue until January 1, 1997.	This determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in high-performance electronics and only for one year.
Precision Cleaning w/ CFC–113 and MCF.	HCFC–141b	Extension of existing unacceptability determination to grant existing uses in precision cleaning permission to continue until January 1, 1997.	This determination extends the use date for HCFC–141b in solvent cleaning, but only for existing users in precision cleaning and only for one year.

AEROSOLS SECTOR

Acceptable Subject to Narrowed Use Limits

Application	Substitute	Decision	Comments
CFC–113, MCF, and HCFC–141b as aerosol solvents.	Perfluorocarbons	Perfluorocarbons are acceptable substitutes for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFCs have extremely long atmospheric lifetimes and high Global Warming Potentials. This decision reflects these concerns and is patterned after the SNAP decision on PFCs in the solvent cleaning sector.
	Perfluoropolyethers	Perfluorocarbons are acceptable substitutes for aerosol applications only where reasonable efforts have been made to ascertain that other alternatives are not technically feasible due to performance or safety requirements.	PFPEs have similar global warming profile to the PFCs, and the SNAP decision on PFPEs parallels that for PFCs in the solvent cleaning sector.

Unacceptable Substitutes

End-use	Substitute	Decision	Comments
CFC–11, CFC–12, HCFC–22, and HCFC–142b as aerosol propellants.	SF6	Unacceptable	SF6 has the highest GWP of all industrial gases, and other compressed gases meet user needs in this application equally well.

[FR Doc. 96–26447 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
October 16, 1996

Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of California Condors in Northern Arizona; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD62

Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of California Condors in Northern Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service), in cooperation with the Arizona Game and Fish Department, and the U.S. Bureau of Land Management, plans to reintroduce California condors (*Gymnogyps californianus*) into northern Arizona/southern Utah and to designate these birds as a nonessential experimental population under the Endangered Species Act. This reintroduction will achieve a primary recovery goal for this endangered species, the establishment of a second non-captive population, spatially disjunct from the non-captive population in southern California. This California condor reintroduction does not conflict with existing or anticipated Federal or State agency actions or current and future land, water, or air uses on public or private lands.

EFFECTIVE DATE: This rule becomes effective on October 16, 1996.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the following Service offices:

—Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, Arizona Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021; Telephone: (602) 640–2720; Facsimile: (602) 640–2730.

—Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California 93003; Telephone: (805) 644–1766; Facsimile: (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Palmer (602/640–2720) at the Arizona Field Office address or Robert Mesta (805/644–1766) at the Ventura Field Office address above.

SUPPLEMENTARY INFORMATION:

Background

1. Legislative

Section 10(j) of the Endangered Species Act of 1973, as amended (Act) enables the Service to designate certain populations of federally listed species that are released into the wild as ''experimental.'' The circumstances under which this designation can be applied are: (1) The population is geographically disjunct from nonexperimental populations of the same species (e.g., the population is reintroduced outside the species' current range but within its probable historic range); and (2) the Service determines the release will further the conservation of the species. This designation can increase the Service's flexibility to manage a reintroduced population, because under section 10(j) an experimental population is treated, in certain instances, as a threatened species regardless of its designation elsewhere in its range, and under section 4(d) of the Act, the Service has greater discretion in developing management programs for threatened species than it has for endangered species.

Section 10(j) of the Act requires that when an experimental population is designated, the Service determine whether that population is either essential or nonessential to the continued existence of the species, based on the best available information. Nonessential experimental populations located outside National Wildlife Refuge System or National Park System lands are treated, for the purposes of section 7 of the Act, as if they are proposed for listing. Thus, for nonessential experimental populations, only two provisions of section 7 would apply outside National Wildlife Refuge System and National Park System lands; section 7(a)(1), which requires all Federal agencies to use their authorities to conserve listed species, and section 7(a)(4), which requires Federal agencies to informally confer with the Service on actions that are likely to jeopardize the continued existence of a proposed species. Section 7(a)(2) of the Act, which requires Federal agencies to ensure that their activities are not likely to jeopardize the continued existence of a listed species, would not apply except on National Wildlife Refuge System and National Park System lands. Experimental populations determined to be ''essential'' to the survival of the species would remain subject to the consultation provisions of section 7 of the Act. Activities undertaken on private lands are not affected by section 7 of the Act unless the activities are authorized, funded, or carried out by a Federal agency.

Section 9 of the Act prohibits the take of a listed species. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, trap, capture, or collect, or attempt to engage in any such conduct. However, in accordance with this special rule issued under section 10(j), throughout the entire California condor experimental population area, you will not be in violation of the Act if you unavoidably and unintentionally take (including killing or injuring) a California condor, provided such take is non-negligent and incidental to a lawful activity, such as hunting, driving, or recreational activities, and you report the take as soon as possible.

Individual animals that comprise a designated experimental population may be removed from an existing source or donor population only after it has been determined that such a removal is not likely to jeopardize the continued existence of the species; the removal must be conducted under an existing permit issued in accordance with the requirements of 50 CFR 17.22. The Service evaluated this project under section 7 of the Act in a biological evaluation and concurrence memorandum dated August 19, 1996; the Service determined that the removal of birds from captive flocks and establishing a second wild flock would not jeopardize the continued existence of this species.

2. Biological

The California Condor (*Gymnogyps californianus*) was listed as endangered on March 11, 1967, in a final rule published by the Service (32 FR 4001). The Service designated critical habitat for the California condor in California, on September 24, 1976 (41 FR 41914). Long recognized as a vanishing species (Cooper 1890, Koford 1953, Wilbur 1978), the California condor remains one of the world's rarest and most imperiled vertebrate species.

The California condor is a member of the family Cathartidae, the New World vultures, a family of seven species, including the closely related Andean condor (*Vultur gryphus*) and the sympatric turkey vulture (*Cathartes aura*). California condors are among the largest flying birds in the world (U.S. Fish and Wildlife Service 1996). Adults weigh approximately 10 kilograms (22 pounds) and have a wing span up to 2.9 meters (9½ feet (ft)). Adults are black except for prominent white underwing linings and edges of the upper secondary coverts. The head and neck are mostly naked, and the bare skin is gray, grading into various shades of yellow, red, and orange. Males and females cannot be distinguished by size or plumage characteristics. The heads of juveniles up to 3 years old are grayish-black, and their wing linings are

variously mottled or completely dark. During the third year the head develops yellow coloration, and the wing linings become gradually whiter (N.J. Schmitt *in litt.* 1995). By the time individuals are 5 or 6 years of age, they are essentially indistinguishable from adults (Koford 1953, Wilbur 1975, Snyder *et al.* 1987), but full development of the adult wing patterns may not be completed until 7 or 8 years of age (N.J. Schmitt *in litt.* 1995).

The fossil record of the genus *Gymnogyps* dates back about 100,000 years to the Middle Pleistocene Epoch (Brodkorb 1964). Fossil records also reveal that the species once ranged over much of the southern United States, south to Nuevo Leon, Mexico, and east to Florida (Brodkorb 1964). Two well preserved fossil bones were reported from a site in upstate New York (Steadman and Miller 1987). Evidence indicates that California condors nested in west Texas, Arizona, and New Mexico during the Late Pleistocene. The disappearance of the California condor from much of this range occurred about 10,000–11,000 years ago, coinciding with the late Pleistocene extinction of the North American megafauna (Emslie 1987).

By the time European man arrived in western North America, California condors occurred in a narrow Pacific coastal strip from British Columbia, Canada, to Baja California Norte, Mexico (Koford 1953, Wilbur 1978). California condors were observed until the mid-1800's in the northern portion of the Pacific Coast region (Columbia River Gorge) and until the early 1930's in the southern extreme, northern Baja California (Koford 1953, Wilbur 1973, Wilbur and Kiff 1980). There is evidence indicating that condors returned to the southwest as early as the 1700's in response to the introduction of large herds of cattle, horses, and sheep that replaced the extinct Pleistocene megafauna as a source of carrion (Emslie 1986). By 1987, the California condor's range was reduced to a wishbone-shaped area encompassing six counties: Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Monterey, and Kern, California (U.S. Fish and Wildlife Service 1996).

Courtship and nest site selection occurs from December through the spring. Breeding California condors normally lay a single egg between late January and early April. The egg is incubated by both parents and hatches after approximately 56 days. Both parents share responsibilities for feeding the nestling. Feeding usually occurs daily for the first 2 months, then gradually diminishes in frequency. At 2 to 3 months of age, condor chicks leave the nest cavity but remain in the vicinity of the nest where they are fed by their parents. The chick takes its first flight at about 6 to 7 months of age, but may not become fully independent of its parents until the following year. Parent birds occasionally continue to feed a fledgling even after it has begun to make longer flights to foraging grounds (U.S. Fish and Wildlife Service 1996).

Because of the long period of parental care, it was formerly assumed that successful California condor pairs normally nested successfully every other year (Koford 1953). However, this pattern seems to vary, possibly depending mostly on the time of year that the nestling fledges. If a nestling fledges relatively early (in late summer or early fall), its parents may nest again in the following year, but late fledging probably inhibits nesting in the following year (Snyder and Snyder 1989).

The only wild California condor (a male) of known age that bred successfully in the wild in 1986 was 6 years old. Recent data collected from captive birds, however, demonstrates that reproduction may occur, or at least be attempted, at earlier ages. A 4 year old male was the youngest condor observed in courtship display, and the same bird subsequently bred successfully at the age of 5 years (M. Wallace, Los Angeles Zoo, *in litt.* 1993). California condors nest in various types of rock formations including crevices, overhung ledges, potholes, and more rarely, in cavities of giant sequoia trees (*Sequoia giganteus*) (Snyder *et al.* 1986).

California condors are opportunistic scavengers, feeding only on carcasses. Typical foraging behavior includes long-distance reconnaissance flights, lengthy circling flights over a carcass, and hours of waiting at a roost or on the ground near a carcass (U.S. Fish and Wildlife Service 1996). Condors may feed immediately, or wait passively as other California condors or golden eagles (*Aquila chrysaetos*) feed on the carcass (Wilbur 1978). Most California condor foraging occurs in open terrain. This ensures easy take-off and approach and makes food finding easier. Carcasses under brush are hard to see, and California condors apparently do not locate food by olfactory cues (Stager 1964). Condors maintain wide-ranging foraging patterns throughout the year, an important adaptation for a species that may be subjected to unpredictable food supplies (Meretsky and Snyder 1992).

Prior to the arrival of European man, California condor food items within interior California probably included mule deer (*Odocoileus hemionus*), tule elk (*Cervus elaogus nannoides*), pronghorn antelope (*Antilocapra americana*), and smaller mammals. Along the Pacific shore the diet may have included whales, sea lions, and other marine species (Emslie 1987, U.S. Fish and Wildlife Service 1984). Koford (1953) listed observations of California condors feeding on 24 different mammalian species within the last two centuries. He estimated that 95 percent of the diet consisted of the carcasses of cattle, domestic sheep, California ground squirrels (*Spermophilus beechyi)*, mule deer, and horses. Although cattle may be the most available food within the range of the condor, deer appear to be preferred (Koford 1953, Wilbur 1972, Meretsky and Snyder 1992). California condors appear to feed only 1 to 3 days per week, but the frequency of adult feeding is variable and may show seasonal differences (U.S. Fish and Wildlife Service 1996).

Depending upon weather conditions and the hunger of the bird, a California condor may spend most of its time perched at a roost. California condors often use traditional roosting sites near important foraging grounds (U.S. Fish and Wildlife Service 1984). Although California condors usually remain at roosts until mid-morning, and generally return in mid- to late afternoon, it is not unusual for a bird to stay perched throughout the day. While at a roost, condors devote considerable time to preening and other maintenance activities. Roosts may also serve some social function, as it is common for two or more condors to roost together and to leave a roost together (U.S. Fish and Wildlife Service 1984). Cliffs and tall conifers, including dead snags, are generally used as roost sites in nesting areas. Although most roost sites are near nesting or foraging areas, scattered roost sites are located throughout the range. There may be adaptive as well as traditional reasons for California condors to continue to occupy a number of widely separated roosts, such as reducing food competition between breeding and non-breeding birds (U.S. Fish and Wildlife Service 1984).

Condor censusing efforts through the years have varied in intensity and accuracy. That has led to conflicting estimates of historical abundance, but all have indicated an ever-declining California condor population. Koford (1953) estimated a population of about 60 individuals in the late 1930s through the mid-1940s, apparently based on flock size. A field study by Eben and Ian McMillan in the early 1960s suggested a population of about 40 individuals,

again based in part on the validity of Koford's estimates of flock size (Miller *et al.* 1965). An annual October California condor survey was begun in 1965 (Mallette and Borneman 1966) and continued for 16 years. Its results supported an estimate of 50 to 60 California condors in the late 1960s (Sibley 1969, Mallette 1970). Wilbur (1980) continued the survey efforts into the 1970s and concurred with the interpretations of the earlier October surveys. He further estimated that by 1978 the population had dropped to 25 or 30 individuals.

In 1981, the Service, in cooperation with California Polytechnic State University at San Luis Obispo, began census efforts based on individual identifications of birds through flight photography (Snyder and Johnson 1985). Minimum summer counts from these photo-censusing efforts showed a steady decline from an estimated minimum of 21 wild condors in 1982, 19 individuals in 1983, 15 individuals in 1984, and 9 individuals in 1985. Although the overall condor population increased slightly after 1982 as a result of establishing a captive flock and double clutching in the wild, and the establishment of a captive flock, the wild population continued to decline. By the end of 1986, all but two California condors were captured for safe keeping and genetic security (U.S. Fish and Wildlife Service 1996).

On April 19, 1987, the last wild condor was captured and taken to the San Diego Wild Animal Park (SDWAP). Beginning with the first successful captive breeding of California condors in 1988, the total population has increased annually and now stands at 121 individuals, including 104 in the captive flock and 17 in the wild (U.S. Fish and Wildlife Service 1996).

Causes of the California condor population decline have probably been numerous and variable through time (U.S. Fish and Wildlife Service 1984). However, despite decades of research, it is not known with certainty which mortality factors have been dominant in the overall decline of the species. Relatively few dead condors have been found, and definitive conclusions on the causes of death were made in only a small portion of these cases (Miller *et al.* 1965, Wilbur 1978, Snyder and Snyder 1989). Poisoning, shooting, egg and specimen collecting, collisions with man-made structures, and loss of habitat have contributed to the decline of the species (U.S. Fish and Wildlife Service 1984).

3. Recovery Efforts

The primary recovery objective as stated in the California Condor Recovery Plan (Plan) (U.S. Fish and Wildlife Service 1996), is to reclassify the condor from endangered to threatened status. The minimum criterion for reclassification to threatened is the maintenance of at least two non-captive populations and one captive population. These three populations must: (1) Each number at least 150 individuals, (2) each contain at least 15 breeding pairs, and (3) be reproductively self-sustaining and have a positive rate of population growth. The non-captive populations also must (4) be spatially disjunct and non-interacting, and (5) contain individuals descended from each of the 14 founders. When these five conditions are met, the species should be considered for reclassification to threatened status. The reclassification to threatened status will only apply to those populations (California) that are listed as endangered. The status of the established nonessential experimental population in northern Arizona/southern Utah will not change if the species is downlisted to threatened.

The recovery strategy to meet this goal is focused on increasing reproduction in captivity to provide condors for release, and the release of condors to the wild. (U.S. Fish and Wildlife Service 1996).

a. *Captive Breeding:* The years 1983 and 1984 were critical in formation of the captive California condor flock at the SDWAP and Los Angeles Zoo (LAZ). In 1983, two chicks and four eggs were brought in from the wild. The chicks went to the LAZ, and the eggs were hatched successfully at the San Diego Zoo (SDZ). Three of the chicks were taken to the SDWAP and one to the LAZ to be reared. In 1984, one chick and eight eggs were taken from the wild. The chick went to the LAZ and six of the eight eggs were successfully hatched at SDZ. Five of the chicks went to the LAZ and one went to the SDWAP to be reared. In 1985, two eggs were taken from the wild and hatched successfully, one at the SDZ and the other at the SDWAP. Both of these chicks were taken to the LAZ to be reared. In 1986, the last egg was brought in from the wild and hatched at the SDWAP, where it was kept for rearing. By 1986, only one pair of condors existed in the wild and the last free-flying condor was captured on April 19, 1987, bringing the captive population to 27. The first successful breeding in captivity occurred in 1988, when a chick was produced at the SDWAP by a pair of wild-caught condors. Four more chicks were produced in 1989. The number of chicks produced by captive condors continues to increase annually and the captive population has grown from the original 27 in 1987 to 104 in 1996. In 1993, the captive breeding program was expanded to include a facility at The Peregrine Fund's World Center for Birds of Prey (WCBP) in Boise, Idaho (U.S. Fish and Wildlife Service 1996).

b. *Releases:* In October 1986, the California Condor Recovery Team (Team) recommended that criteria be satisfied before a release of captive-bred California condors could take place. These included having three actively breeding pairs of condors, three chicks behaviorally suitable for release, and retaining at least five offspring from each breeding pair contributing to the release. The Team added a provision to the third criterion to retain a minimum of seven progeny in captivity for founders that were not reproductively active (U.S. Fish and Wildlife Service 1996).

The 1991 breeding season produced two condor chicks that met the Team's criteria for release, a male from the SDWAP and a female from the LAZ. However, attempting to apply the Team's third criterion to the 1991 chicks also revealed that it would not be practical in the future, because several founders had died without producing five progeny. The Team, therefore, recommended choosing genetically appropriate chicks for future releases based on pedigree analyses developed for genetic management of captive populations (U.S. Fish and Wildlife Service 1996).

Prior to capture of the last wild California condor in 1987, the Team recognized that anticipated future releases of captive-reared condors would pose the problem of reintroducing individuals of an altricial (helpless at birth) bird into habitat devoid of their parents and other members of their own species. Thus, the Team recommended initiation of an experimental release of Andean condors. Research objectives for the experimental release were to refine condor release and recapture techniques; test the criteria being used to select condor release sites; develop written protocols for releases, monitoring, and recapture of condors; field test rearing protocols being used, or proposed for use to produce condors suitable for release; evaluate radiotelemetry packages; supplemental feeding strategies; train a team of biologists for releasing condors; and identify potential problems peculiar to the California environment. The Andean condor experiment began in August 1988 and concluded in December 1991.

During that period, three release sites where tested and a total of 13 female Andean condors were released. Only one mortality occurred in the field when an Andean condor collided with a power line (U.S. Fish and Wildlife Service 1996).

In 1991, a pair of California condor chicks were released into Sespe Condor Sanctuary, Los Padres National Forest, Ventura County, on January 14, 1992. The male died from ingesting ethylene glycol (antifreeze) in October of the same year. The next release of California condors occurred on December 1, 1992, when six more captive-produced California condors chicks were released at the same Sespe Condor Sanctuary site. Socialization with the remaining female from the first release proceeded well, and the ''flock'' appeared to adjust well to the wild conditions. However, there was continuing concern over the tendency of the birds to frequent zones of heavy human activity. Indeed, three of these birds eventually died from collisions with power lines between late May and October 1993 (U.S. Fish and Wildlife Service 1996).

Because of the tendency for the remaining condors to be attracted to the vicinity of human activity and man-made obstacles, especially power lines, another California condor release site was constructed in a more remote area, Lion Canyon, in the Los Padres National Forest near the boundary of the San Rafael Wilderness Area in Santa Barbara County. Five hatch-year condors were released at the new site on December 8, 1993. In addition, the four condors that had been residing in the Sespe area were moved to the new site. They were re-released over a period of several weeks in hopes that this approach would reduce the probability that they would return to the Sespe area. Nevertheless, three of these condors eventually moved back to the Sespe area in March 1994, where they resumed the high risk practice of perching on power poles. Because of general concern about the tameness of these birds and the possibility that their undesirable behavior would be mimicked by younger California condors, these condors were retrapped on March 29, 1994, and added to the captive breeding population. On June 24, 1994, one of the 1993 California condors died when it collided with a power line. A second condor that was in the company of this condor at the time of its death, was trapped and returned to the LAZ. The three remaining wild condors continued to frequent areas of human activity and were trapped and returned to the LAZ (Fish and Wildlife Service 1996).

As a result of the deaths due to collisions with power lines and the attraction of newly released young condors to humans and their activities, the 14 young California condors scheduled for release in 1995 were subjected to aversion training at the LAZ. An electrified mock power pole and natural snag perches were constructed in a large flight pen holding the release candidates. When the young condors landed on the electrified pole they were given negative reinforcement in the form of a mild shock. When they landed on the natural snag perches they received no shock. After only a few attempts at landing on the electrified power pole and receiving a mild shock, they all avoided the power pole and used the natural perches exclusively (M. Wallace, Los Angeles Zoo, *in litt.* 1995).

This group of California condors was also subjected to a series of human aversion exercises. Aversion maneuvers were staged in which a person would appear in view of a group of condors at a distance of approximately 100 meters (300 yds). Once it was determined that the condors spotted the person, the condors would be ambushed and captured by a hidden group of biologists. These condors were then placed in sky kennels, and later released after nightfall (M. Wallace, The Los Angeles Zoo, *in litt.* 1995). The goals of this exercise were to condition the condors to associate this negative experience with humans and increase the distance in which they would flush in future encounters with humans.

On February 8, 1995, six of the trained condors were released at Lion Canyon. On August 29, the remaining eight California condors of this group were released at the Lion Canyon Site. The 1995 release candidates were split into two groups in order to keep the releases at more manageable numbers. To date none of these condors have attempted to land on a power pole and, although they have roosted near campgrounds, they have not approached humans. The one exception was a young condor of this group that was lured into a campground by campers that placed food and water out for it. This condor was subsequently trapped and brought into the LAZ. The remaining 13 continue to avoid both power poles and human activities.

On March 1, 1995, the three condors remaining in the wild from the December 8, 1993, release were trapped and brought into captivity. This was done so they would not negatively influence the newly released birds that underwent the aversion training.

The 1995 breeding season produced 13 condors eligible for release, 4 of which were parent hatched and reared. At approximately 3 months of age the four parent hatched and reared condors were transferred to a newly constructed rearing facility at the Hopper Mt. National Wildlife Refuge System. This group was released to the wild on February 13, 1996, at the Castle Crags release site located approximately 64 km (40 mi) northwest of Lion Canyon on the western border of San Luis Obispo County. An objective of this release is to try and determine if parent hatched and reared chicks taken from LAZ at the earliest possible date and placed in a natural environment to be reared will be more successful in their adjustment to the wild. There are now 17 condors flying free in southern California and all have undergone aversion training. Of 14 release candidates produced in the spring of 1996, 6 parent-reared birds are being held for release at the Vermilion Cliffs in northern Arizona.

4. Reintroduction Sites

To satisfy the objectives of the Plan, at least one subpopulation of non-captive California condors must be established in an area disjunct from the subpopulation already being reestablished in the recent historical range in California. Following a widely publicized solicitation for suggestions for suitable condor release sites outside of California, the Team recommended in December 1991 that California condor releases be conducted in northern Arizona. Because this area once supported California condors, still provides a high level of remoteness, ridges and cliffs for soaring, and caves for nesting, the probability of a successful reintroduction is very good. The Service endorsed this recommendation on April 2, 1992. In collaboration with the Federal initiative to designate a release site in Arizona, the Arizona Game and Fish Department began evaluating a possible California condor reintroduction in 1989. The Arizona Game and Fish Department determined the reestablishment as appropriate and feasible in steps 1 and 2 of the Department's ''Procedures for Nongame Wildlife and Endangered Species Re-establishment Projects,'' a 12-step process specifying the protocol for a nongame reintroduction to take place (U.S. Fish and Wildlife Service 1995b).

a. *Site Selection Process:* Potential release sites in northern Arizona were evaluated through aerial reconnaissance, site visits, and discussions with agency personnel familiar with the areas. This evaluation process resulted in selection of four potential release sites. As required by

the National Environmental Policy Act of 1969 (NEPA), the Service, in cooperation with the Arizona Game and Fish Department and the Bureau of Land Management, produced an Environmental Assessment titled ''Experimental Release of California Condors at the Vermilion Cliffs (Coconino County, Arizona)'' in which the potential release sites and adjacent lands (for population expansion) were thoroughly examined and objectively evaluated. The NEPA process resulted in selection of a preferred release site at the Vermilion Cliffs located on Bureau of Land Management lands (U.S. Fish and Wildlife Service 1995b).

The suitability of the Vermilion Cliffs as a California condor release site was further evaluated using the Service's ''The Condor Release Site Evaluation System.'' This system uses 25 working criteria divided into three priority classes: Priority 1 includes features critical to releasing and establishing condors in the wild; priority 2 includes features that are necessary but not critical; and priority 3 includes features that would add or detract from suitability but are not critical. The working criteria are grouped into working factors that include site suitability, logistics, man-made threats/hazards, and suitability of adjacent lands (for population expansion). Each working criterion is assigned a quantitative value and weighted according to assigned priority criteria. The sum from the three priority classes gives the total value for a site. This rating system verified the Vermilion Cliffs (the preferred alternative) as a suitable release site (U.S. Fish and Wildlife Service 1995b).

b. *Vermilion Cliffs Release Site:* The Vermilion Cliffs release site is on the southwestern corner of the Paria Plateau approximately 100 meters from the edge of the Vermilion Cliffs, Coconino County, Arizona. The Paria Plateau is characterized by relatively flat, undulating topography dominated by pinyon-juniper/blue grama grass (*Pinus edulis-Juniperus osteosperma/Bouteloua gracilis*) communities and mixed shrub communities dominated by sagebrush (*Artemesia* spp.) on sandy upland soils. To the south and east of the Plateau lies the steep precipice of the Vermilion Cliffs, rising over 1,000 feet from the floor of House Rock Valley. Uplifting and differential erosion has created complex geologic structures and a diverse variety of habitats in a small geographic area. The cliffs are sharply dissected by canyons and arroyos and the lower slopes are littered with enormous boulders. Numerous springs emerge from the sides of the cliffs (U.S. Bureau of Land Management and Arizona Game and Fish Department 1983).

5. Reintroduction Protocol

In general, the reintroduction protocol will involve an annual release of captive-reared California condors until recovery goals, as outlined in the Plan, are achieved (U.S. Fish and Wildlife Service 1995b). These reintroduction protocols were developed and tested in the current southern California condor release project.

a. *Condor Release:* The reintroduction project is designed to release a group of captive-reared California condors once each year. Condors may be moved to the release site in the fall of 1996 and released in late 1996. Three captive breeding facilities (LAZ, SDWAP, and WCBP), are producing condors for release to the wild. The size of each release group will depend on the number of hatch-year condors produced during the late winter to early spring of that year, but releases will likely involve up to 10 hatch-year condors. These condors will be hatched in captivity and raised by a condor look-alike hand puppet, or by their parents, until they are approximately 4 months of age. They will then be placed together in a single large pen so they will form social bonds. At approximately 6 months of age they will be moved to a large flight pen and undergo aversion training to humans and power poles for 1 to 2 months. After the training has been completed the young condors will be transported by helicopter to the release site at the Vermilion Cliffs (U.S. Fish and Wildlife Service 1995b).

At the release site they will be placed in a temporary release pen and, depending on the age of the birds, will remain there for an acclimation period of approximately 1 week to 3 months, depending upon the age of the condors and other factors. This structure will be approximately 16 ft by 8 ft and 6 ft high. Netting will cover the front of the pen, allowing the young condors to view and become accustomed to the surrounding area. The release pen will be pre-fabricated, delivered to the release site by vehicle or helicopter, and removed from the site after the young condors have fledged (U.S. Fish and Wildlife Service 1995b).

Meanwhile, biologists will remain near the release pen 24 hours a day observing the young condor's behavior and guarding against predators or other disturbance. After the initial adjustment period and when all the young condors can fly, the release will take place. Any release candidate showing signs of physical or behavioral problems will not be released. Release is accomplished by removing the net at the front of the pen allowing the birds to exit. The young condors will likely remain in the immediate area of the pen for some time before beginning exploratory forays along the cliffs. A small area of approximately 10 acres of BLM land will be posted temporarily closed to recreational activity to protect the newly released condors and will remain closed until they have dispersed from the release area (U.S. Fish and Wildlife Service 1995b).

b. *Supplemental Feeding:* Condors are dependent on carrion and must be fed until they learn to locate carcasses independently. Newly released young condors will be dependent on carrion provided by biologists, making it necessary to maintain a supplemental feeding program. However, older condors (sub-adults and adults), will probably be locating carcasses on their own and would not be dependent on the supplemental feeding program for their survival. Supplemental feeding should reduce the likelihood of deaths of young condors from accidental poisoning insofar as it prevents them from feeding on contaminated carcasses. The diet provided to the condors will consist primarily of livestock carcasses and road-killed animals. Field biologists will deliver carcasses to the condors every 4 to 5 days by carrying carcasses to the edge of the cliffs at night, to avoid detection by the condors. A network of feeding stations on prominent points with high visibility will be identified in the general area of the release. Carcasses will be placed on the ground or, if predators become a problem, placed off the ground atop natural rock outcrops less accessible to ground predators (U.S. Fish and Wildlife Service 1995b).

c. *Monitoring:* All California condors released to the wild will be equipped with two radio transmitters: one on each patagium (the fold of skin in front of the main segments of a bird's wing); or one patagial placement, and one mounted on the tail. In addition, they will wear bold colored patagial markers on each wing with code numbers to facilitate visual identification. The movements and behavior of each condor will be monitored for at least the first 2 to 3 years of its life. Ground triangulation will be the primary means of radio tracking. Aerial tracking will be used to find lost birds or when more accurate locations are desired.

Telemetry flights will be coordinated with the appropriate land management agencies (U.S. Fish and Wildlife Service 1995b).

Status of Reintroduced Population

In accordance with section 10(j) of the Act, California condors reintroduced into northern Arizona will be designated as a nonessential experimental population for the following reasons: the principal population exists in the safe environment of three captive breeding facilities; the existing wild population in southern California will not be adversely affected by this reintroduction; and establishing a second wild population will further enhance the recovery of this species. The conditions under which a population can be designated as experimental are: the population must be geographically disjunct from any other wild populations of the same species, and the Service determines that the release will further the conservation and recovery of the species.

Section 10(j) is designed to increase the Service's flexibility to manage an experimental population by treating it as a threatened species regardless of its designation in other parts of its range. This is because section 4(d) of the Act gives the Service greater flexibility in the development and implementation of regulations to manage threaten species than it does for endangered species. This flexibility allows the Service to manage the experimental population in a manner that will ensure that current and future land, water or air uses and activities should not be restricted and the population can be managed for recovery purposes.

Before an experimental population can be released, section 10(j) requires that a determination be made by the Service whether the population is either ''essential'' or ''nonessential'' to the continued existence of the species. An experimental population determined to be essential is treated as a threatened species. An experimental population determined to be nonessential is treated as a species proposed for listing as threatened. The exception is a nonessential population located within the National Park System or National Wildlife Refuge System lands will be treated as a threatened species for purposes of section 7(a)(2) of the Act. If those same condors leave the National Park System or National Wildlife Refuge System, they will be considered as a species proposed for listing.

Section 7(a)(2) of the Act prohibits Federal agencies from authorizing, funding, or carrying out any activity that would likely jeopardize the continued existence of a listed species or adversely modify their critical habitats. All Federal agencies must consult with the Service to insure that any activity that is authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of a listed species. A nonessential experimental population is treated as a threatened species on National Park System and National Wildlife Refuge System lands, and would be subject to the consultation requirements of section 7(a)(2) on those lands. In addition, on all other lands, two provisions of section 7 apply to nonessential experimental populations; section 7(a)(1), which requires all Federal agencies to use their authorities to conserve listed species, and section 7(a)(4), which requires Federal agencies to informally confer with the Service on actions that are likely to jeopardize the continued existence of a proposed species.

Currently, the captive California condor population (104 individuals) exists in the safe environment of three captive breeding facilities located at the SDWAP, LAZ, and WCBP. The captive breeding facilities are not included in exhibits, are closed to the public and are under 24 hour surveillance by condor keepers or video cameras. Only essential program personnel are granted access to the captive population. The captive population is given excellent care and since 1982 there have been no deaths of adults or sub-adults. In addition, the geographic separation of the three breeding facilities protects these subpopulations from the threat of extinction due to a single catastrophic event.

The reproductive rate of the captive population dramatically exceeds the mortality rate of the wild population. All condors lost in the reintroduction efforts can be replaced by current chick production, while the captive population continues to increase. The wild population will not be adversely affected by the reintroduction since it is hundreds of miles away (see below).

By mid-1987, every surviving individual of the species was held in captivity following agreement that the decline of the wild population to eight surviving adults had demonstrated that the wild population was destined for likely extinction (Geyer *et al.* 1993). Genetic management, which includes control of all matings, has maximized the potential genetic viability of the wild captive population. No California condor hatched in captivity is considered for release to the wild unless its founder line is well-represented in the captive population. All release candidates are genetically redundant and their loss will not jeopardize the diversity of the existing condor gene pool.

The reintroduction project will further the conservation and recovery of the species by establishing a second wild population, ensuring the existence of a wild population if a catastrophic event eliminates the southern California population, enhancing the opportunity to manage the genetic diversity of the wild population, and avoiding the potential risks inherent in overcrowding the captive population.

Location of Reintroduced Population

Under section 10(j)(1) of the Act, an experimental population must be geographically separate from nonexperimental populations of the same species. The last recorded sighting of a California condor in the experimental population area occurred in 1924, when Edouard Jacot observed a condor feeding on a carcass with golden eagles near the town of Williams, Arizona (Rea 1983). Condor researchers are confident that there are no undocumented wild condors in the release area or anywhere else in their historic range outside of California. Currently, 17 endangered California condors are located in the wild back country of Santa Barbara County, California. This non-captive population is located approximately 720 kilometers (km) (450 miles (mi)) west of the release site, and 480 km (300 mi) west of the western boundary of the reintroduction area. The longest distance covered by one of these recently reintroduced condors has been approximately 240 km (150 mi) over a period of 1 week, with typical daily flights from 8 km (5 mi) to 16 km (10 mi). According to Meretsky and Snyder (1992) the foraging flights by breeding California condors in the 1980's were from 70 km (44 mi) to 180 km (112 mi). Based on this information, the Service does not expect any immigration/emigration between the extant non-captive and the nonessential experimental populations.

The California condor reintroduction site in northern Arizona is located on the Vermilion Cliffs, in the southwestern corner of the Paria Plateau. However, the designated nonessential experimental population area will be larger and include portions of three states, Arizona, Nevada, and Utah. The southern boundary is Interstate Highway 40 in Arizona from its junction with Highway 191 west across Arizona to Kingman; the western boundary starts at Kingman, goes northwest on Highway 93 to Interstate Highway 15, continues northeasterly on Interstate Highway 15 in Nevada and Utah, to Interstate Highway 70 in Utah; where the northern boundary starts and goes across Utah to Highway 191; where

the eastern boundary starts and goes south through Utah until Highway 191 meets Interstate Highway 40 in Arizona (See map at end of this rule). The Service has designated this experimental population area to accommodate any potential future movements by condors and to include wild canyon habitat that stretches from the eastern Utah southwest through Arizona to the eastern border of Nevada that will provide this population of condors with a natural refugium in which to raise future generations of condors. In the experimental population area, condors will maintain the status of nonessential experimental. Any condors that leave the experimental population area will be considered as endangered. However, this special rule includes provisions for the capture and return of condors to the experimental population area should the birds stray out of the experimental population area.

Management

Service regulations require that, to the extent practicable, a regulation promulgated under section 10(j) of the Act, represent an agreement between the Service, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of the experimental population (see 50 CFR § 17.81 (d)). The Vermilion Cliffs reintroduction project will be undertaken by the Service and its primary cooperators, the Arizona Game and Fish Department and the Bureau of Land Management. Other cooperators that will provide support on an as-needed basis include: Utah State Department of Natural Resources, Grand Canyon National Park, Glen Canyon National Recreation Area, Kaibab National Forest, the Hualapai Tribe, the Navajo Nation, Los Angeles Zoo, Zoological Society of San Diego (the Zoological Society includes the SDWAP and SDZ), The Phoenix Zoo, and The Peregrine Fund. This nonessential experimental population will be managed in accordance with the provisions of a Memorandum of Understanding (MOU) among the cooperators (noted above), an Agreement between the Service and a coalition of county and local governments (Coalition) in the California condor experimental population area, and this final rule. At this time, the MOU and Agreement are in final form, and will be signed soon after publication of this rule. A separate agreement between the Service and the State of Utah is under development. This rule to the maximum extent practicable represents an agreement between the Service, the affected state and Federal agencies and persons holding an interest in land which may be affected by the establishment of this experimental population. The purpose of the MOU is to establish a general framework for cooperation and participation among the cooperators to establish a long-term program to release captive reared California condors and achieve the recovery goals for this species as cited in the California Condor Recovery Plan (U.S. Fish and Wildlife Service 1996). In order to accomplish these goals each cooperator will designate a principal contact to interface with the field program and participate on a working team to develop annual work plans, provide facilities, equipment, logistical support, and land access, as needed and when available, to the field program and provide ongoing review of and feedback on the progress of the reintroduction program. The purposes of the Agreement are to ensure to the maximum extent practicable that current and future land, water, or air uses within the experimental population area are not affected as a consequence of the release of California condors in northern Arizona/southern Utah, and to promote the recovery of the California condor. This will be accomplished through annual coordination meetings with local governments and communities to review the status of the reintroduction effort.

The reintroduction area consists of remote Federal or Native American Reservation lands with limited private lands. The management scheme for these lands (e.g., BLM, Kaibab National Forest, Grand Canyon National Park, Glen Canyon National Recreation Area, and Navajo Indian Reservation) is consistent with the reintroduction of condors into this area. Furthermore, the designation of this population as nonessential experimental will encourage local cooperation as a result of the management flexibility allowed under this designation. The Service considers the nonessential experimental population designation, MOU, Agreement, and associated reintroduction plan (an appendix to the Environmental Assessment) necessary to receive cooperation of the affected landowners, agencies, and recreational interests in the experimental population area.

A designation of nonessential experimental limits the application of section 7(a)(2) of the Act. For the purposes of section 7, the nonessential experimental population is treated as a proposed species except on National Wildlife Refuge System and National Park System lands. Current and future land, water, or air uses such as, but not limited to: commercial and business development; forest management; agriculture; mining and energy resource exploration and development (e.g. coal); livestock grazing; development of transportation and utility corridors (e.g. power transmission lines); communication facilities; water development projects; sport hunting and fishing; air tour operations and outdoor recreational activities (e.g. jeep tours, hiking, biking, boating) should not be restricted due to the designation of the nonessential experimental population of California condors. In addition, no operational restrictions due to the presence or potential presence of California condors will be placed on currently permitted activities on Bureau of Land Management grazing allotments located in proximity to the release site at the Vermilion Cliffs. Further, if any modifications of existing structures are needed to protect condors they will be made or financed by the appropriate MOU cooperator with the approval of the land manager and/or private operator, in accordance with applicable procedures.

The progress of the reintroduction project will receive an informal review on an annual basis and a formal evaluation by all cooperators and the Coalition within the first 5 years after the first release to evaluate the reintroduction project and determine future management needs. All reviews will include, but not be limited to: a review of management issues; compliance with agreements; assessment of available carrion; dependence of older condors on supplemental food sources; post release behavior; causes and rates of mortality; alternative release sites; project costs; and public acceptance. Once recovery goals are met for downlisting the species, and tasks in the recovery plan are accomplished, a proposed rule to reclassify the species from endangered to threatened would be developed. The Service has determined that the establishment of this nonessential experimental population will further the conservation and recovery of the California condor. The number of variables that could affect this reintroduction project make it difficult to develop criteria for success or failure after 5 years. However, if after 5 years the condor population is experiencing a 40 percent or greater mortality rate or released condors are not finding food on their own, serious consideration will be given to terminating the project.

Summary of Comments and Recommendations

On November 13, 1990, the Service conducted its first public meeting to discuss the feasibility of reintroducing California condors in the Grand Canyon area, the Grand Canyon National Park hosted the meeting. Represented at the meeting were Federal, State, and Tribal agencies, local industries, conservation organizations, and interested private citizens. After this meeting and before the National Environmental Policy Act (NEPA) process was initiated in May 1995, approximately 16 scoping/reconnaissance meetings on the reintroduction were held with interested Federal, State, and Tribal agencies. On May 15, 1995, a NEPA scoping letter was sent out to approximately 200 Federal and State agencies, tribal, county, and city governments, private industries, conservation groups, and other interested parties. It announced the Service's intent to prepare an Environmental Assessment on a proposal to establish a long term project to reintroduce California condors into northern Arizona and requested comments on the proposal. On August 14, 1995, the Service mailed out approximately 300 copies of the draft Environmental Assessment for the ''Experimental Release of California Condors at the Vermilion Cliffs, Coconino County, Arizona'' for review and comment. On February 29, 1996, the Service completed a Finding of No Significant Impact (FONSI) for the reintroduction project. A revised version of the FONSI was signed on September 23, 1996. The Service mailed out approximately 300 letters announcing that the FONSI and the final Environmental Assessment were available upon request. The revised FONSI is also available to the public (see **ADDRESSES** section). The development of this NEPA document included a combination of 16 meetings and presentations to explain the proposal and accept comments.

On January 2, 1996, the Service published (61 FR 35) a proposed rule to establish a nonessential experimental population of California condors in northern Arizona/southern Utah with a comment period that closed on February 1, 1996. The proposed rule included the announcement of two public hearings, one in Flagstaff, Arizona, the other in Kanab, Utah. A legal notice, announcing the proposed rule, the two hearings, and inviting public comment was published in the Southern Utah News, The Richfield Reaper, The Times Independent, The Beaver Press, The San Juan Recorder, The Salt Lake Tribune, Desert News, The Spectrum, Arizona Daily Sun, Kingman Daily Miner, The Arizona Republic, The Phoenix Gazette, Williams Grand Canyon News, Holbrook Tribune News, Las Vegas Review Journal, and The Las Vegas Sun, between January 9 and 14, 1996.

On February 6, 1996, the Service published a notice in the Federal Register (61 FR 4394) reopening the comment period until February 29, 1996, and on February 29, 1996, published a second notice (61 FR 7770) extending the comment period until April 1, 1996. The proposed rule and two comment extensions were announced in published legal notices, press releases, and a special mailing to interested parties. Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the rulemaking process and allowing the Service to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause. The extensions were made to address the comments and concerns of the communities located within the proposed experimental population area. During the extension period a series of eight meetings were conducted with State, County, and local governments and industry representatives located within the proposed experimental population area to address their specific concerns.

Changes in the final rule as a result of public comments: Two paragraphs (10 and 11) have been added to the special rule based on public comments on the proposed rule. The Service also made minor wording changes to other paragraphs in the special rule to provide more clarity. These additions and minor modifications do not alter the predicted impact or effect of the final rule:

1. Paragraph (1) has been amended to clearly indicate that this release will further the conservation of the California condor.

2. The language describing allowable take has been clarified to indicate that throughout the entire California condor experimental population area, you will not be in violation of the Act if you unavoidably and unintentionally take (including killing or injuring) a California condor, provided such take is non-negligent and incidental to a lawful activity, such as hunting, driving, or recreational activities, and you report the take as soon as possible.

3. According to paragraph 10 in the special rule, the status of the reintroduction project will receive an informal evaluation on an annual basis and a formal evaluation within the first 5 years after the initial release, and every 5 years thereafter. The evaluation will include, but not be limited to, a review of management issues, compliance with agreements, assessment of available carrion, dependence of older condors on supplemental food sources, post release behavior, causes and rates of mortality, alternative release sites, project costs, and public acceptance. Paragraph 10 in the special rule also includes conditions under which the Service would consider termination of the project. If after 5 years the project is experiencing a 40 percent or greater mortality rate or released condors are not finding food on their own, serious considerations will be given to terminating the project.

4. According to special rule paragraph 11, the Service does not intend to pursue a change in the nonessential experimental population designation to experimental essential, threatened, or endangered, or to modify the experimental population area boundaries without consulting with and obtaining the full cooperation of (1) affected parties located within the experimental population area, (2) the reintroduction program cooperators identified in the Memorandum of Understanding (MOU) for this program, and (3) the cooperators identified in the Agreement for this program. The Service does not intend to change the status of this nonessential population until the California condor is recovered and delisted in accordance with the Act or if this reintroduction is not successful and the rule is revoked. No designation of critical habitat will be made for nonessential populations (16 U.S.C. § 1539(j)(2)(C)(ii)). If legal actions or other circumstances compel a change in this nonessential experimental population's legal status to essential, threatened, or endangered, or compel the Service to designate critical habitat for the California condors within the experimental population area defined in this rule, then, unless the parties to the MOU and Agreement existing at that time agree that the birds should remain in the wild, all California condors will be removed from such area and this experimental population rule will be revoked. Changes in the legal status and/or removal of this population of California condors will be made in compliance with any applicable Federal rulemaking and other procedures.

To date, the Service has conducted a minimum of 59 meetings, which included 2 public hearings, published 42 legal notices in newspapers in Arizona, Utah, and Nevada, and

developed a mailing list approaching 400 in an attempt to inform all interested parties and address their concerns. A total of 206 written and 33 oral comments were received during the comment period. Analysis of the comments revealed 19 issues that are identified and discussed below.

Issue 1: The goal of this reintroduction project needs to be clearly stated. Is it to establish a self-sustaining or artificially maintained population?

Service Response: The goal of this reintroduction project is to establish a self-sustaining population of 150 individuals, with at least 15 breeding pairs. In order to accomplish this goal it will be necessary to provide supplemental food as long as young inexperienced condors are being released to the wild. In order for these condors to survive the transition from captivity to the wild they must be provided food until they learn to locate carcasses on their own. For condors this ability develops over an extended period of time; first they must build strength to sustain long foraging flights, then they must learn how to utilize local wind patterns, and finally become familiar with their new environment. This phase is prolonged because there are no adults to guide them through these steps. Over time these condors will attain the knowledge and skill to find carcasses on their own and will become independent of the supplemental food.

Supplemental feeding is an integral component of proven avian release strategies. The successful recovery of the American peregrine falcon (peregrine) was due in part to the reintroduction programs that released young captive-reared peregrines into unoccupied habitats throughout most of its range in North America. When this release program began in 1974 they provided food to young captive-reared peregrines released to the wild. Today, 22 years later, food is still being provided to newly released captive-reared peregrines making the transition to the wild. The peregrine wild population is approaching 1,300 pairs. The Service published a notice of intent to propose the peregrine for delisting on June 30, 1995 (60 FR 34406).

Issue 2: The large number of road kills in Utah could result in condor mortalities, particularly along Highway 89 between Kanab and Big Water, which bisects a major migration route for the Paunsaugunt mule deer herd. Large numbers of deer are killed along this highway every year that could attract condors which could be injured or killed by highway traffic.

Service Response: California condors have never been observed to come down to a highway to feed on road killed carrion (Jan Hamber, Santa Barbara Museum of Natural History, pers. comm. 1996). To ensure that condors released at the Vermilion Cliffs are not attracted to any road kill, the operational plan for this release requires that Highway 89 and others in the area be monitored on a regular basis for road kills, particularly during the spring and fall mule deer migrations when the number of road kills is highest.

All road kills will either be collected and stored in large freezers as a source of future food for condors or moved well off the highway so condors and other scavenging species can feed safely.

Issue 3: Will the power lines located in the release area threaten this population?

Service Response: Early in 1995, a program to teach condors to avoid power poles/lines was developed and initiated at the Los Angeles Zoo. Power pole aversion training was accomplished by constructing an electrified mock power pole in the large flight pen holding young condors scheduled for release to the wild. This pole was designed to give the condors that landed on it a mild but uncomfortable shock. Natural tree snags were also placed in the flight pen to reward the condors who perched on them with a positive experience, no shock. In less than 2 weeks the condors being trained attempted to land on the pole and received a mild shock. It only took one such experience to teach the condors to avoid the pole.

The group of condors that underwent the power pole aversion training have been in the wild for over 1 year and have not been observed landing on power poles. Although only one power pole configuration was used, this group of condors has avoided all types of power poles. In order to ensure the success of this training method, mock electrified power poles will be erected near the release site, these poles will mimic the configurations in the area. This was done in southern California as a means of continuing the training in the field; however, this group of condors has yet to attempt to land on them.

Issue 4: Reintroduction projects can be very expensive, how much is this costing the taxpayer?

Service Response: The Service and its cooperators have entered into a partnership with The Peregrine Fund (Fund), a nonprofit conservation organization devoted to the conservation and study of raptors and other birds. The Service approached the Fund to participate in this reintroduction project because of their extensive experience and success in the captive breeding and releasing of endangered bird species throughout the world. The Fund will be managing the reintroduction project in the field under the direction of the Service and its cooperators. The Fund will also be raising the money to finance the reintroduction project at the Vermilion Cliffs. This extremely important recovery objective will take the condor a significant step closer to recovery, creates little if any landowner burden, and is undertaken with a partner so little cost is borne by the Service.

Issue 5: How will the operation of the California condor reintroduction project at the Vermilion Cliffs affect hunting in the area?

Service Response: Mule deer, desert bighorn sheep, bison, pronghorn antelope, coyotes, rabbits, and game birds are hunted in the area. The field operation of the reintroduction project will have no impact on these hunts. With the exception of a small [4 hectares (10 acres)] temporary closure at the release site while the condors are being held for release, no restrictions are being placed on public hunting opportunities or any other outdoor recreational activities. The issue of condor deaths attributed to lead poisoning resulting from hunting is addressed under Issue 11.

Issue 6: California condors should not be released in northern Arizona because *Gymnogyps californianus* did not occur in northern Arizona prehistorically, the Pleistocene condor was actually *G. amplus.*

Service Response: The California Condor was more widespread during the late Pleistocene epoch (Wetmore 1931a, 1931b, Brodkorb 1964, Lundelius *et al.* 1983, Steadman and Miller 1987). In the southwestern United States, condor fossils have been reported from at least 14 caves in the northern Arizona region (deSaussure 1956, Miller 1960, Parmalee 1969, Mead and Phillips 1981, Rea and Hargrave 1984, Emslie 1987, 1988), Nevada (Miller 1931, Howard 1952), New Mexico (Wetmore 1931a, 1932, Howard and Miller 1933, Howard 1962a, 1971, Emslie 1987), and Texas (Wetmore and Friedmann 1933, Emslie 1987). The Arizona specimens are between 9,580–22,110 years before present, based on radiocarbon dating (Emslie 1987, 1990). The disappearance of the condor and other large scavenging birds from these regions coincided with the extinction of the Pleistocene mammalian megafauna, an event that may have been related to climatic changes (Mehringer 1967), to the effects of over hunting by aboriginal man

(Martin 1967), or to a combination of these factors.

Most authors have arbitrarily assigned all Pleistocene *Gymnogyps* fossils to the form *G. amplus,* described from a large tarsometatarsus found in Pleistocene deposits in a northern California cave (Miller 1911), on the recommendation of Fisher (1944, 1947). However, aside from their generally larger size and slight differences in skull structure (Fisher op cit., cf Emslie 1988), there appear to be no features that distinguish Pleistocene *Gymnogyps* fossils from the bones of modern condors. Furthermore, certain Pleistocene condor bones, including some from Arizona, have been as small as those of present day condors (Miller 1957, Parmalee 1969, Rea and Hargrave 1984).

All avian paleontologists, including Miller (1957) (the original describer of *G. amplus*), Howard (1947, 1962b), Wetmore (1956, 1959), Brodkorb (1964) and Emslie (1987), who have considered the matter have remarked that ''amplus'' is merely a temporal subspecies of present day *G. californianus* and thus its progenitor. As a means of resolving nomenclatural ambiguity and to reflect the presumed relationships among condors old and new, Emslie (1988) recommended that the Pleistocene Gymnogyps fossils and present day California condors all be treated as representatives of the species *G. californianus,* restricting the trinomial *G. californianus amplus* for Pleistocene fossils and the name *G.c. californianus* for the modern birds.

Issue 7: The proposed reintroduction location is not within the probable historic range of the California condor.

Service Response: Although earlier authors, including Swarth (1914), Harris (1941), Koford (1953), and Wilbur (1978), did not accept historical records of California condors east of California, or regarded such reports as equivocal, several recent authorities have treated these records as authentic (Phillips *et al.* 1964, Rea 1981, Emslie 1986, 1987, Snyder and Snyder in press). Historical sightings of condors in Arizona mentioned by these authors include those of Coues (1866), F. Stephens (in Brewster 1882), Rhoads (1892), Brown (1899), Jacot (ms), and Mearns (ms). A purported sighting of a condor in Utah (Henshaw 1875) and other Utah reports (Hayward *et al.* 1976) seem to be less convincing.

The California condor survived the late Pleistocene extinction by retreating to the coastal mountain ranges of the Pacific Ocean. There it was able to survive by supplementing its diet with fish and marine mammal carcasses that washed onto the beaches (Emslie 1986). Emslie (1986, 1987) and Snyder and Snyder (in press) suggest that the California condor moved back into Arizona as early as the 1700's in response to the introduction of large herds of cattle, horses, and sheep, which would explain sightings recorded in the 1800's. Emslie (1986, 1987) and Snyder and Snyder (in press) also suggest that the species was eliminated by shooting and other forms of human persecution before it could become reestablished throughout the region.

Issue 8: Some expressed concern about the effect the status of California condors could have on the National Recreation Areas located within the experimental population area and how the threatened status of these birds might affect ongoing activities at the National Recreation Areas such as mining, hunting, and grazing, that are of special interest to surrounding communities. A similar concern was expressed with respect to the air tour industry in Grand Canyon National Park and whether future restrictions on this activity could occur.

Service Response: Glen Canyon and Lake Mead National Recreation Areas and Grand Canyon National Park are located within the experimental population area; these areas are administered by the Secretary of the Interior, and are included in the National Park System (see 16 U.S.C. § 1c(a)), and are subject to the 1916 Organic Act and other laws applicable to National Parks and Monuments.

Condors located in National Recreation Areas and National Parks within the experimental population area would be treated as a threatened species for purposes of Section 7 consultation. Although enabling legislation for each recreation area authorizes activities unique to the area, they are still managed as units of the National Park System.

The Service does not foresee that activities in the California condor experimental population area, including activities in the National Recreation Areas, would jeopardize the continued existence of the California condor. Additionally, the Service does not foresee that any ongoing or future land, water, or air will be restricted due to this reintroduction project. That is demonstrated by: (1) Condors utilize remote, canyon habitat; (2) the Service has never determined that an activity may cause jeopardy of the condor during the time (29 years) that condors have been listed and fully protected in California; (3) the size of the California condor population is expected to increase in the future; (4) existing land management is compatible with condors; and (5) the management strategies identified in the experimental population rule virtually eliminate the possibility of impacts to condors or existing and future activities in the experimental population area.

A significant portion of the California condor experimental population area includes remote wild canyon back country habitat that will provide this population with a natural refugium in which to raise young and will minimize the opportunity for condor conflicts with any ongoing or proposed activities. Also, the condor's requirement for remote inaccessible cliff nesting habitat, wide-ranging foraging patterns, and carrion prey base make them less susceptible to impacts from most human related activities. Consequently, condors released into the experimental population area should be able to co-exist with the current and anticipated land, water, or air uses in the area in a compatible manner without conflict.

Since the California condor was listed as endangered in 1967, the Service has never rendered a jeopardy determination on the wild fully protected condor population in southern California, clearly demonstrating the benign nature of this species and the likelihood that a jeopardy opinion would ever be rendered on this experimental population.

For the purposes of section 7(a)(2), the Service would consider the effects a proposed project would have on the entire species. Thus, in analyses under section 7(a)(2), the Service would evaluate the effects a project located on a National Recreation Area against the entire condor population, and not solely against the nonessential experimental population.

As part of the management strategy for this population the Service will relocate any condor within the experimental population area, including the National Park System, to avoid conflicts with ongoing or proposed activities, or when relocation is requested by an adversely affected landowner (see special rule 4(ii)). This provision of the Service's management strategy virtually eliminates any possibility of conflict by allowing the Service or permitted cooperator to remove a condor in order to resolve potential conflict. It is evident that the Service and its Cooperators are committed to do all they can to resolve any problems in an expedient manner in order to avoid conflicts between condors and any current or proposed activities.

Formal consultation with the Service may be required for activities such as

mining, hunting, and grazing in these National Recreation Areas. However, as explained above, based on the best available information at the time of this rulemaking, the Service does not foresee that any of these ongoing (or currently proposed) activities is likely to cause jeopardy to the condor.

Issue 9: Air Tour Operators in the Grand Canyon National Park (Park) do not believe that condors should be introduced into northern Arizona unless it can be demonstrated that there is an acceptably low impact to air safety.

Service Response: The Federal Aviation Administration (FAA), Information Management Section's National Data Base has been collecting voluntary reports on aircraft bird strikes nationwide since 1973 (23 yrs). To date, no bird strikes have been reported within the Grand Canyon National Park (Park) boundary. An estimate of the current number of scenic overflights in the Park is approximately 80,000 annually, an average of 219 flights per day, with the number of flights per day increasing dramatically during the peak summer months. According to the FAA's data base only 11 bird strikes were recorded for the entire State of Arizona during this 23-year period and none resulted in a plane crash or injuries to pilots or passengers. Interviews with pilots operating in the Park indicate that bird strikes have occurred, but were not considered significant enough to report to the FAA.

Dolbeer, Wright, and Cleary (1995) summarized all wildlife strike incidents reported to the FAA in 1994 and, of the 2,220 strike reports analyzed, 2,150 (97 percent) involved birds. Most bird strikes occurred during the approach/landing (54 percent) and take-off (34 percent) phases of flight (Dolbeer, Wright, and Cleary 1995). This would put most bird strikes in close vicinity to airports and at very low elevations. Condors are not expected to utilize this airspace. In the unlikely event that a condor would fly or perch within the operating space of an airport, it would be captured and moved for its safety and the safety of those utilizing the airport.

California condors soaring in the Grand Canyon will be utilizing the updrafts and deflected winds generated by large cliff walls. Their flights along these walls will be to forage, to fly to and from nests, or down to water, all of which will take place well below the Grand Canyon rim. The advantage of this air lift is lost above the Grand Canyon rim, therefore, condors should be expected to soar at or below the rim when in the Grand Canyon, well below the air traffic. Some comparisons have been made between eagles and condors relative to the potential for collisions with planes. Eagles are aggressive, fast, and able to change directions instantaneously. Also, they are not dependent on winds, like condors to gain elevation. They would be more likely to utilize the airspace above the Grand Canyon and pose a threat to air traffic and yet, there has never been a substantiated aircraft eagle strike to date. Condors on the other hand, are dependent on winds generated by the topography of the Grand Canyon, their soaring flights are slow, deliberate, and predictable. Pilots flying at or below 200 miles per hour (mph) should be able to see and avoid bird strikes. The commercial air carriers operating in the Grand Canyon fly at speeds of approximately 120 to 150 mph (Mike Ebersole, Grand Canyon National Park, pers. comm. 1996).

Wilbur (1978) investigated over 300 California condor mortalities recorded between 1806 and 1976, and none involved a collision with an aircraft. There is no known record of an aircraft-condor strike or near miss (Jan Hamber, Santa Barbara Museum of Natural History, pers. comm. 1996). The Service is confident that condors and the air tour operators can co-exist to the mutual benefit of one another and plans to work closely with air tour operators to ensure the safety of condors and air tours.

Issue 10: What will the food source for condors be and is it adequate to support a self-sustaining population of condors?

Service Response: California condors feed on the carcasses of dead animals, primarily mammals (Wilbur 1978). Koford (1953) listed observations of California condors feeding on 24 different mammalian species over the last two centuries. However, ungulates including the carcasses of domestic livestock are expected to be the primary sources of food for condors released at the Vermilion Cliffs. The Kaibab Plateau supports a large population of mule deer and a small population is resident on the Paria Plateau. Desert bighorn sheep (*Ovis canadensis nelsoni*) are found on the Paria Plateau, the west side of the Kaibab Plateau, and the Grand Canyon. House Rock Valley supports a small population of pronghorn antelope. These ungulates become available to condors as natural mortalities, hunter kills and road kills. Road kills removed from Highway 89 could be a significant source of supplemental food, particularly during the spring and fall deer migration, when as many as 20 road kills have been recorded in a single night. Mortality in the bison (*Bison bison*) herd managed by the Arizona Game and Fish Department located in House Rock Valley could provide a source of carcasses for supplemental feeding of young California condors (Vashti Supplee, Arizona Game and Fish Department, pers. comm. 1995). There are eight Bureau of Land Management and seven Forest Service livestock grazing allotments on the Paria Plateau, eastern Kaibab Plateau, and House Rock Valley. In addition to these public allotments there are private and State-owned inholdings in House Rock Valley and the Paria Plateau that are being grazed (U.S. Fish and Wildlife 1995b). Because of their ability to forage over large areas, it is difficult to predict exactly what condors will feed on and where, once they start dispersing from the release site.

As a survival strategy, condors have a very efficient lifestyle. When they are not looking for carcasses or attending eggs or young, they spend most of their time perched on a roost. In flight they soar on thermals and updrafts which requires little energy expenditure, and they are often airborne all day. Despite their large size, their efficient flight allows them to cover large areas in search of food with little physical effort. Having evolved this foraging strategy, condors can survive in a landscape that does not appear to provide the density of carrion necessary to sustain such a large bird. In addition, condors have no known natural predators in the wild and therefore, do not expend energy avoiding predators.

As the California condor population becomes established in the experimental area, the Service will be able to better evaluate whether the area's carrying capacity is less than or greater than the stated target of 150 condors and 15 breeding pairs.

Issue 11: Lead poisoning could be a problem once young condors learn to find carrion on their own. How does the Service plan to address this potential threat to condors?

Service Response: Three California condor deaths have been attributed to lead poisoning since 1983 (Janssen *et al.* 1986, Wiemeyer *et al.* 1988). Uncovered carcasses and gut piles resulting from ungulate or small mammal hunting were the probable sources of the lead (Pattee *et al.* 1990). Limited hunting takes place on the Paria Plateau, so the opportunity for condors to encounter unrecovered hunter kills or gut piles is relatively low. However, the Kaibab Plateau is heavily hunted and represents a threat to condors once they disperse from the release site and learn to locate food on their own. This process could take 1 or more years. The Service in cooperation with the Department, Bureau of Land Management, and the Forest Service,

plans to utilize this window of time to address the potential threat of lead poisoning by initiating a hunter education program on the danger of lead to condors and suggesting ways that hunters can help (e.g., bury gut piles), and investigating potential non-toxic sources of ammunition that could be substituted for lead bullets on a voluntary basis. The Service does not intend to request modifications or restrictions to the current hunting regulations anywhere in the vicinity of the Vermilion Cliffs release site or in the experimental population area. Issue 5 also addresses the concern on the affects of this reintroduction on hunting.

Some condor deaths from this and other sources of mortality are to be expected, but will presumably be more than compensated by natural and captive reproduction.

Issue 12: There is a concern that the increase in recreational activity due to bird-watchers and other visitors coming to the Vermilion Cliffs area to view the condors could result in impacts to the local environment (e.g., off-road travel, littering, trespass).

Service Response: Highway 89A parallels the Vermilion Cliffs for approximately 45km (28mi), affording excellent opportunities to view condors (U.S. Fish and Wildlife Service 1995b). The interpretive centers at the Navajo Bridge and Jacob Lake will be supplied with information on the natural history and status of the condors. The Dominguez-Escalante interpretive pullout and the House Rock Overlook will provide excellent panoramic views of the Vermilion Cliffs (U.S. Fish and Wildlife Service 1995b). With these opportunities available and the unpaved roads unsuitable for most passenger vehicles, it is anticipated that virtually all wildlife viewing will be done from the paved highway.

Issue 13: There is a concern that the use of the ''nonessential experimental'' designation will not provide adequate protection for this population.

Service Response: A Memorandum of Understanding (MOU) developed by the Service, Arizona Game and Fish Department, State of Utah Department of Natural Resources, Division of Wildlife Resources, Bureau of Land Management, Grand Canyon National Park, Glen Canyon National Recreation Area, Kaibab National Forest, The Peregrine Fund, Hualapai Tribe, The Navajo Nation, The Los Angeles Zoo, Zoological Society of San Diego, and The Phoenix Zoo is in final form. This MOU is designed to achieve conservation of the California condor through voluntary agreement to manage this population according to the recovery goals for this species as cited in the California Condor Recovery Plan (U.S. Fish and Wildlife Service 1996).

Issue 14: It was suggested that the nonessential population area (area) be enlarged to include the entire State of Utah. This suggestion was based on the concerns that the condors could easily travel outside the designated area and relocating condors would be logistically difficult and potentially harmful to the birds.

Service Response: Although wide ranging in their foraging patterns, flights by recently reintroduced condors and movement data collected in the 1980s by Meretsky and Synder (1992), suggest that the designated area will adequately contain this population for the life of the project. Possible stress or injury associated with relocating condors that have left the area will be avoided. However, inconsistent food supplies make it impossible to predict with certainty the future foraging patterns of this population. Should the designated area prove to be inadequate, the Service has the option to revise this rule to increase the designated area or change its configuration based on the movements of the birds.

Issue 15: Several points concerning compliance with the National Environmental Policy Act (NEPA) were raised. These were: inadequate public notice was provided for the proposed project; that an environmental impact statement, not an environmental assessment, is necessary due to the large area of the nonessential experimental designation; and there is a perceived conflict of interest with the Peregrine Fund who was the contractor that prepared the environmental assessment.

Service Response: The California condor recovery effort in northern Arizona/southern Utah represents the culmination of over 6 years of work with State, Federal, Tribal, and Municipal agencies, and the general public. The Service has sponsored or participated in public meetings and provided public comment periods on both the draft EA and this rulemaking in an attempt to inform all interested parties throughout the experimental population area of the proposed project. Refer to the above introductory paragraphs of the ''Summary of Comments and Recommendations'' section of this rule for a more detailed account of announcements and legal notices, meetings, and comment periods. The Service believes that it has fully met the requirements and intent of NEPA for full public involvement and the disclosure of the effects of the proposed action.

An environmental impact statement is required for any given project when that major Federal action may significantly affect the quality of the human environment. The analysis of effects of the proposed action on existing land uses and human activities completed as part of the environmental assessment did not demonstrate any significant impacts to the natural or physical environment, or the relationship of people with that environment. The provisions of the nonessential experimental designation under section 10(j) of the Act are intended to relax regulations governing the protection of reintroduced populations of endangered species. This action does not impose land use restriction or otherwise affect land management activities. Throughout the entire California condor experimental population area, you will not be in violation of the Act if you unavoidably and unintentionally take (including killing or injuring) a California condor, provided such take is non-negligent and incidental to a lawful activity, such as hunting, driving, or recreational activities, and you report the take as soon as possible. Therefore, neither the ''context'' nor ''intensity'' test of significance of affect of the proposed action under NEPA would trigger the preparation of an environmental impact statement.

NEPA specifically provides that the lead Federal agency, a project applicant, or a contractor may prepare the required environmental documentation. However, regardless of who prepares these documents, it does not diminish the lead agency's responsibilities to provide guidance and participate in the preparation of the environmental assessment, independently evaluate the information included in the documents, make its own evaluation of the environmental issues, and take responsibility for the scope and content of the environmental assessment. The Service reviewed and evaluated information in the EA while it was being developed and believes the conclusions drawn through the EA process are appropriate and fully supportable as demonstrated by adopting the EA, distributing the EA as a Service document and preparing a Finding of No Significant Impact based upon that EA.

Issue 16: The release of a nonessential experimental population of California condors was opposed because it was seen by some as facilitating the designation of the reintroduction area as a wilderness area.

Service Response: As discussed earlier in this final rule, the reintroduction area was selected as the

area for reintroduction because of its remoteness and because it contained habitat features used by condors. The Service's decision to issue this final rule to establish a nonessential experimental population of California condors and to reintroduce condors is not intended to support or to oppose the designation of any wilderness areas. Wilderness areas are designated via an Act of Congress after extensive review by the Federal land manager and other interested parties.

Issue 17: The Service's definition of take is too broad. The Service could interpret take incidental to otherwise lawful activities (e.g., road building or widening, farming, construction projects such as housing developments) to constitute avoidable take. The terms ''unavoidable'' and ''accidental'' were seen as being too vague, and impossible for a defendant to prove in court.

Service Response: Take of an endangered or threatened species is prohibited by the Act, and carries criminal penalties for knowing violation. In this rule, take is prohibited except where such take is unavoidable and unintentional (including killing or injuring), provided such take is non-negligent and incidental to a lawful activity, such as hunting, driving, or recreational activities and the take is reported as soon as possible. Thus activities such as shooting, or intentionally harassing, or attempting to run over a condor with a motor vehicle are prohibited, and subject to criminal prosecution.

As noted above, the rule also provides that take that is ''non-negligent and incidental to an otherwise lawful activity'' is not prohibited. Thus, construction activities, road building or widening, and farming, if performed in the above described manner, would not constitute take.

Issue 18: The Service should provide a 100 percent guarantee that the release of California condors will not in any way restrict the use of private property, including use of water rights.

Service Response: As discussed under Issue 17 above, otherwise lawful activities such as farming, ranching, road building, and construction projects on private land should not be restricted. Activities such as the intentional killing of condors are prohibited and subject to criminal prosecution.

Issue 19: The Service should explain whether or not any interaction is expected between California condors and Mexican spotted owls.

Service Response: The Service does not expect any interaction between condors and Mexican spotted owls. Condors prefer relatively open areas, whereas owls prefer denser forests.

National Environmental Policy Act

A final environmental assessment as defined under authority of the National Environmental Policy Act (NEPA), has been prepared and is available to the public at the Service office identified in the **ADDRESSES** section. This assessment formed the basis for the decision that the California condor reintroduction is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of NEPA.

Migratory Bird Treaty Act

The final rule will not affect protection provided to the California condor by the Migratory Bird Treaty Act (MBTA). The take of all migratory birds, including the California condor, is governed by the MBTA. The MBTA regulates the taking of migratory birds for educational, scientific, and recreational purposes.

Required Determinations

This final rule was subject to Office of Management and Budget review under Executive Order 12866. The rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on the information discussed in this rule concerning public projects and private activities within the experimental population area, the rule will not cause significant economic impacts. Also, no direct costs, enforcement costs, information collection, or record-keeping requirements are imposed on small entities by this action and the rule contains no record-keeping requirements, as defined in the Paperwork Reduction Act of 1980 (44 U.S.C. 350 *et seq.*). This rule does not require a federalism assessment under Executive Order 12612 because it would not have any significant federalism effects as described in the Order.

The 30-day delay between publication of a final rule and its effective date as provided by the Administrative Procedure Act (5 U.S.C. 553(d)(3)) has been waived. The prompt reintroduction of the current release candidates is desirable for the following reasons: The space currently utilized by this year's condor cohort will soon be needed to house next year's release candidates; and the longer young condors are held in captivity beyond the optimal release window of 6 to 10 months, the more difficult they are to manage at release time, increasing the risk to the birds. Therefore, good cause exists for this rule to be effective immediately upon publication.

References Cited

A complete list of all references cited herein is available upon request from the Arizona Field Office or Ventura Field Office. (See **ADDRESSES** section.)

Author

The primary author of this rule is Robert Mesta, U.S. Fish and Wildlife Service, Ecological Services, Ventura Field Office. (See **ADDRESSES** section.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and Record Keeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, the Service hereby amends part 17, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In Section 17.11(h), the table entry ''Condor, California'' under BIRDS is revised to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
BIRDS							

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Condor, California	Gymnogyps californianus.	U.S.A. (AZ, CA, OR, UT), Mexico (Baja California).	U.S.A. only, except where listed as an experimental population below..	E	1,597	17.95(b)	NA
Do	.....do	.....do	U.S.A. (specific portions of Arizona, Nevada, and Utah).	XN	597	NA	17.84(j)
*	*	*	*	*	*		*

3. Section 17.84 is amended by adding paragraph (j) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(j) California condor (*Gymnogyps californianus*).

(1) The California condor (*Gymnogyps californianus*) population identified in paragraph (j)(8) of this section is a nonessential experimental population, and the release of such population will further the conservation of the species.

(2) You must not take any California condor in the wild in the experimental population area except as provided by this rule:

(i) Throughout the entire California condor experimental population area, you will not be in violation of the Endangered Species Act (Act) if you unavoidably and unintentionally take (including killing or injuring) a California condor, provided such take is non-negligent and incidental to a lawful activity, such as hunting, driving, or recreational activities, and you report the take as soon as possible as provided under paragraph 5 below.

(3) If you have a valid permit issued by the Service under § 17.32, you may take California condors in the wild in the experimental population area, pursuant to the terms of the permit.

(4) Any employee or agent of the Fish and Wildlife Service (Service), Bureau of Land Management or appropriate State wildlife agency, who is designated for such purposes, when acting in the course of official duties, may take a California condor from the wild in the experimental population area and vicinity if such action is necessary:

(i) For scientific purposes;

(ii) To relocate California condors within the experimental population area to improve condor survival, and to address conflicts with ongoing or proposed activities, or with private landowners, when removal is necessary to protect the condor, or is requested by an adversely affected landowner or land manager, or other adversely affected party. Adverse effects and requests for condor relocation will be documented, reported and resolved in as an expedient manner as appropriate to the specific situation to protect condors and avoid conflicts. Prior to any efforts to relocate condors, the Service will obtain permission from the appropriate landowner(s);

(iii) To relocate California condors that have moved outside the experimental population area, by returning the condor to the experimental population area or moving it to a captive breeding facility. All captures and relocations from outside the experimental population area will be coordinated with Service Cooperators, and conducted with the permission of the landowner(s) or appropriate land management agency(s).

(iv) To aid a sick, injured, or orphaned California condor;

(v) To salvage a dead specimen that may be useful for scientific study; or

(vi) To dispose of a dead specimen.

(5) Any taking pursuant to paragraphs (j)(2), (j)(4)(iv), (j)(4)(v), and (j)(4)(vi), of this section must be reported as soon as possible to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, Arizona Field Office, Phoenix, 2321 W. Royal Palm Road, Suite 103, Arizona (telephone 602/640–2720) who will determine the disposition of any live or dead specimens.

(6) You must not possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any California condor or part thereof from the experimental population taken in violation of this paragraph (j) or in violation of applicable State or Tribal laws or regulations or the Act.

(7) It is unlawful for you to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (j)(2) and (j)(6) of this section.

(8) The designated experimental population area of the California condor includes portions of three states—Arizona, Nevada, and Utah. The southern boundary is Interstate Highway 40 in Arizona from its junction with Highway 191 west across Arizona to Kingman; the western boundary starts at Kingman, goes northwest on Highway 93 to Interstate Highway 15, continues northeasterly on Interstate Highway 15 in Nevada and Utah, to Interstate Highway 70 in Utah; where the northern boundary starts and goes across Utah to Highway 191; where the eastern boundary starts and goes south through Utah until Highway 191 meets Interstate Highway 40 in Arizona (See map at end of this paragraph (j)).

(i) All California condors released into the experimental population area, and their offspring, are to be marked and visually identifiable by colored and coded patagial wing markers.

(ii) The Service has designated the experimental population area to accommodate the potential future movements of a wild population of condors. All released condors and their progeny are expected to remain in the experimental area due to the geographic extent of the designation.

(9) The nonessential experimental population area includes the entire highway rights-of-way of the highways in paragraph (j)(8) of this section that constitute the perimeter boundary. All California condors found in the wild within these boundaries will comprise the experimental population.

(i) The experimental population is to be monitored during the reintroduction project. All California condors are to be given physical examinations before being released.

(ii) If there is any evidence that the condor is in poor health or diseased, it will not be released to the wild.

(iii) Any condor that displays signs of illness, is injured, or otherwise needs special care may be captured by authorized personnel of the Service, Bureau of Land Management, or appropriate State wildlife agency or their agents, and given the appropriate care. These condors are to be re-released into the reintroduction area as soon as possible, unless physical or behavioral problems make it necessary to keep

them in captivity for an extended period of time, or permanently.

(10) The status of the reintroduction project is to receive an informal review on an annual basis and a formal evaluation within the first 5 years after the initial release, and every 5 years thereafter. This evaluation will include, but not be limited to: a review of management issues; compliance with agreements; assessment of available carrion; dependence of older condors on supplemental food sources; post release behavior; causes and rates of mortality; alternative release sites; project costs; public acceptance; and accomplishment of recovery tasks prescribed in California Condor Recovery Plan. The number of variables that could affect this reintroduction project make it difficult to develop criteria for success or failure after 5 years. However, if after 5 years the project is experiencing a 40 percent or greater mortality rate or released condors are not finding food on their own, serious consideration will be given to terminating the project.

(11) The Service does not intend to pursue a change in the nonessential experimental population designation to experimental essential, threatened, or endangered, or modify the experimental population area boundaries without consulting with and obtaining the full cooperation of affected parties located within the experimental population area, the reintroduction program cooperators identified in the memorandum of understanding (MOU) for this program, and the cooperators identified in the agreement for this program.

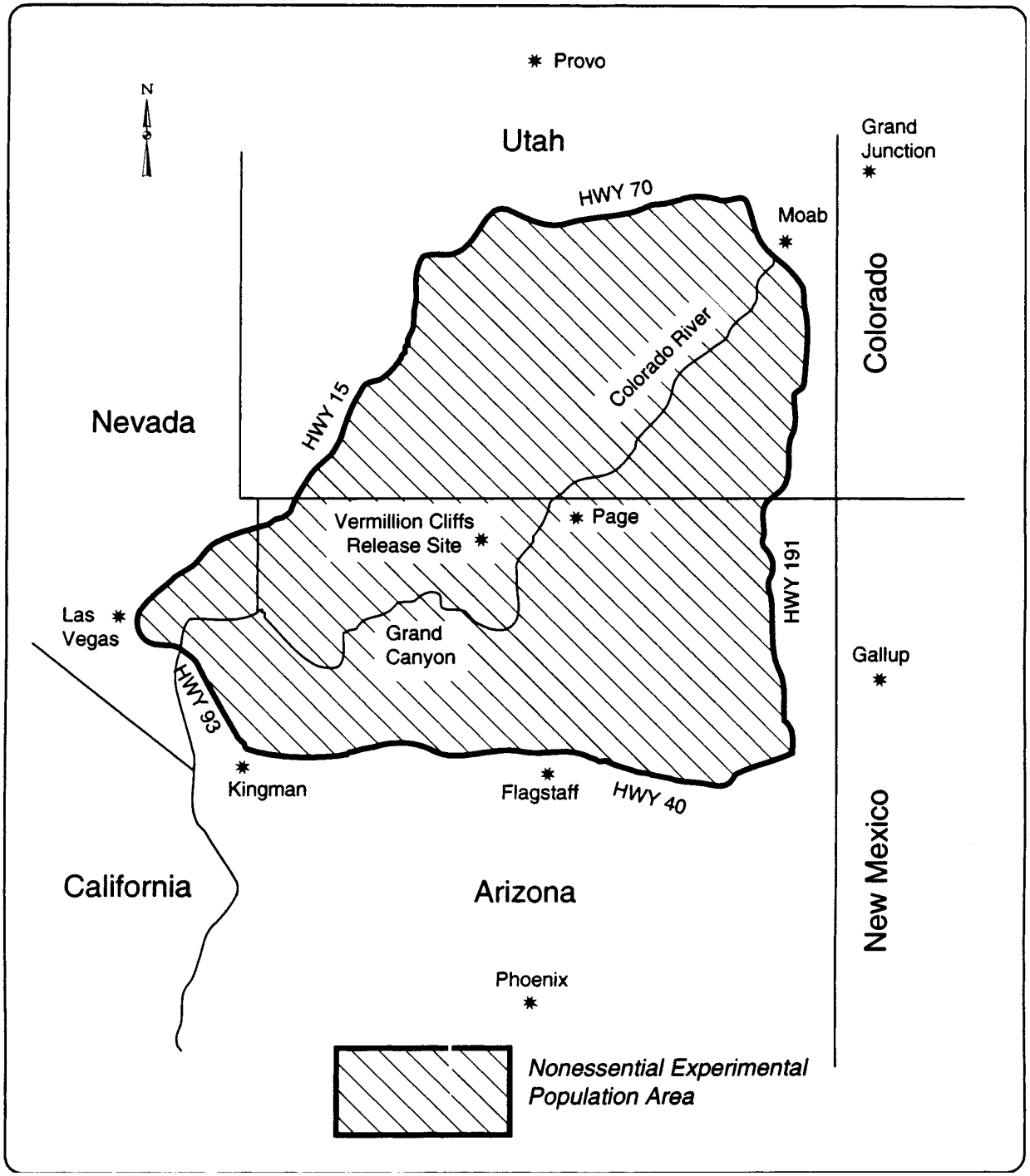
(i) The Service does not intend to change the status of this nonessential population until the California condor is recovered and delisted in accordance with the Act or if the reintroduction is not successful and the rule is revoked. No designation of critical habitat will be made for nonessential populations (16 U.S.C. § 1539(j)(2)(C)(ii).

(ii) Legal actions or other circumstances may compel a change in this nonessential experimental population's legal status to essential, threatened, or endangered, or compel the Service to designate critical habitat for the California condors within the experimental population area defined in this rule. If this happens, all California condors will be removed from the area and this experimental population rule will be revoked, unless the parties to the MOU and agreement existing at that time agree that the birds should remain in the wild. Changes in the legal status and/or removal of this population of California condors will be made in compliance with any applicable Federal rulemaking and other procedures.

BILLING CODE 4310–55–P

CALIFORNIA CONDOR

Nonessential Experimental Population Area And Release Site



Dated: October 8, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–26535 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–55–C

federal register

Wednesday
October 16, 1996

Part VIII

Environmental Protection Agency

Code of Environmental Management Principles; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5636–4]

Code of Environmental Management Principles

AGENCY: Environmental Protection Agency.

ACTION: Announcement of EPA's Issuance of the Code of Environmental Management Principles for Federal Agencies.

SUMMARY: This notice serves as a public announcement of the issuance of the Code of Environmental Management Principles or the CEMP developed by EPA in consultation with other Federal Agencies as mandated by Executive Order 12856 (''Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements'') signed by President Bill Clinton on August 3, 1993. On September 3, 1996, EPA transmitted the CEMP to Federal agency executives who signed the Charter for the Interagency Executive Order 12856 Pollution Prevention Task Force in September 1995, requesting written commitment to the principles contained in the CEMP. EPA also is asking Federal agency executives to provide a written statement declaring their agency's support for the CEMP principles along with a description of the agency's plans for implementation of the CEMP at the facility level.

DATES: EPA has asked for written responses from Federal agency executives by October 1, 1996.

Extensions to requesting agencies have been granted to October 18, 1996. EPA plans to issue a summary of agency responses in January 1997.

FOR FURTHER INFORMATION CONTACT: James Edward, Acting Associate Director, Federal Facilities Enforcement Office, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency, 401 M Street, SW., Washington DC 20460, telephone 202–564–2462 or Andrew Cherry, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. 20460, phone (202) 564–5011, fax (202) 501–0069

SUPPLEMENTARY INFORMATION:

I. Explanation of the CEMP

A. Background

EPA believes that leadership opportunities in environmental management should be fully realized for the Federal agencies and departments throughout the U.S. Government. American citizens and other stakeholder groups have increasingly sought a more responsible standard of care toward the environment from various sectors of industry and other private organizations. In response, more and more companies and trade associations have begun initiatives that call for identifying their environmental impacts, measuring their successes in meeting environmental objectives, sanctioning shortcomings, recognizing accomplishments, and making continuous improvement. Recently the growing popularity of national and international consensus based environmental management standards among industry demonstrates this trend. However, the public has also demanded that the Federal Government and its agencies and departments, also demonstrate a commitment to a common environmental ethic. EPA believes that if the Federal Government is willing to make a public commitment to voluntarily adopt an appropriate code of environmental ethics or conduct, which is at least equivalent to the commitment demonstrated by environmental leaders in the private sector, and hold itself accountable for implementing these principles, then significant progress can be made toward improving public trust and confidence toward Federal facility environmental performance.

On August 3, 1993, President Clinton signed Executive Order No. 12856, which pledges the Federal Government to implement pollution prevention measures, and publicly report and reduce the generation of toxic and hazardous chemicals and associated emissions. Section 4–405 of Executive Order 12856 requires the Administrator of the Environmental Protection Agency (EPA), in cooperation with Federal agencies, to establish a Federal Government Environmental Challenge Program. Similar to the ''Environmental Leadership'' program proposed in 1993 by EPA's Office of Enforcement, the program is designed to recognize and reward outstanding environmental management performance in Federal agencies and facilities. As required under the Executive Order, the program shall consist of three components to challenge Federal agencies to: (1) Agree to a code of environmental principles emphasizing pollution prevention, sustainable development, and ''state of the art'' environmental management programs; (2) submit applications to EPA for individual Federal facilities for recognition as ''Model Installations''; and (3) encourage individual Federal employees to demonstrate outstanding leadership in pollution prevention. The program is geared toward recognizing those departments, agencies, and Federal installations where mission accomplishment and environmental leadership become synonymous and to highlight these accomplishments as models for both Federal and private organizations.

On September 12, 1995, senior agency representatives signed the Charter for the Interagency Pollution Prevention Task Force committing the Federal Government to achieve, among other items, environmental excellence through various activities including: (a) Active agency and facility participation in the Federal Government Environmental Challenge Program and, (b) participation in the establishment of an agency Code of Environmental Management Principles.

EPA has been working to develop the CEMP through the Interagency Pollution Prevention Task Force, which was created by the Executive Order, since January 1995. In June 1995, a subcommittee of Federal agency representatives was formed by the Task Force to work directly with EPA in the development of the CEMP. Through this process, several drafts of the CEMP were forwarded to Federal agencies by the subcommittee for formal review and comment. This version of the CEMP represents the final version as approved by the subcommittee and incorporates comments from members of the Interagency Task Force.

On September 3, 1996, Steve Herman, the EPA Assistant Administrator for Enforcement and Compliance Assurance, signed a letter transmitting the CEMP to the Federal agency executives who had signed the Charter for the Interagency Executive Order 12856 Pollution Prevention Task Force in September 1995, requesting written commitment to the Principles contained in the CEMP. In this letter, EPA also asked each agency to provide a written statement declaring their support for the CEMP principles at the agency level along with a description of their plans for implementation of the CEMP at the facility level.

EPA is seeking endorsement of the CEMP Principles on an agency wide basis, with flexibility as to how the Principles themselves are implemented at the facility level. For example, agencies can choose to directly implement the CEMP Principles at the facility level or use another alternative environmental management system (e.g., ISO 14001). This flexible approach is in recognition that of the fact that individual Federal facilities and installations may already have environmental management systems in

place or are considering adoption of the ISO 14001 Environmental Management Standard.

It is also important to point out that the term ''agency'' is used throughout the CEMP to represent the participation of individual Federal Government entities. It should be recognized that many Cabinet-level ''agencies'' have multiple levels of organization and contain independently operating bodies (known variously as bureaus, departments, administrations, services, major commands, etc.) with distinct mission and function responsibilities. Therefore, while it is expected that a ''parent agency'' would subscribe to the CEMP, each parent agency will have to determine the most appropriate level(s) of explicit CEMP implementation for its organization. Regardless of the level of implementation chosen for the organization, it is important that the parent agency or department demonstrate a commitment to these principles.

With respect to the other two components of the Federal Government Environmental Challenge Program, EPA will merge the E.O. 12856 Model Installation Program with EPA—s Environmental Leadership Program (ELP), which is also open to private facilities, when the ELP becomes a full-scale program in 1997. One of the prerequisites for Federal facility participation in the ELP will be agency endorsement of the CEMP principles. In addition, EPA will also the individual employee recognition component of the Challenge Program with the Executive Order 12873 Closing the Circle Awards Program beginning in 1996.

B. Overview of the CEMP

Five broad environmental management principles have been developed to address all areas of environmental responsibility of Federal agencies. More discussion of the intent and focus of each principle and supporting elements may be found in the next section, ''Implementation of The Code of Environmental Management Principles.'' The five Principles are as follows:

1. Management Commitment

The agency makes a written top-management commitment to improved environmental performance by establishing policies which emphasize pollution prevention and the need to ensure compliance with environmental requirements.

2. Compliance Assurance and Pollution Prevention

The agency implements proactive programs that aggressively identify and address potential compliance problem areas and utilize pollution prevention approaches to correct deficiencies and improve environmental performance.

3. Enabling Systems

The agency develops and implements the necessary measures to enable personnel to perform their functions consistent with regulatory requirements, agency environmental policies and its overall mission.

4. Performance and Accountability

The agency develops measures to address employee environmental performance, and ensure full accountability of environmental functions.

5. Measurement and Improvement

The agency develops and implements a program to assess progress toward meeting its environmental goals and uses the results to improve environmental performance.

II. Implementation of the Code of Environmental Management Principles

Each of the five principles, which provide the overall purpose of the step in the management cycle, is supported by *Performance Objectives,* which provide more information on the tools and mechanisms by which the principles are fulfilled. The principles and supporting *Performance Objectives* are intended to serve as guideposts for organizations intending to implement environmental management programs or improve existing programs. It is expected that each of these principles and objectives would be incorporated into the management program of every organization. The degree to which each is emphasized will depend in large part on the specific functions of the implementing organization. An initial review of the existing program will help the organization to determine where it stands and how best to proceed.

Principle 1: Management Commitment

The agency makes a written top-management commitment to improved environmental performance by establishing policies which emphasize pollution prevention and the need to ensure compliance with environmental requirements.

Performance Objectives

1.1 Obtain Management Support. The agency ensures support for the environmental program by management at all levels and assigns responsibility for carrying out the activities of the program.

Management sets the priorities, assigns key personnel, and allocates funding for agency activities. In order to obtain management approval and support, the environmental management program must be seen as vital to the functioning of the organization and as a positive benefit, whether it be in financial terms or in measures such as regulatory compliance status, production efficiency, or worker protection. If management commitment is seen as lacking, environmental concerns will not receive the priority they deserve.

Organizations that consistently demonstrate management support for pollution prevention and environmental compliance generally perform at the highest levels and will be looked upon as leaders that can mentor other organizations wishing to upgrade their environmental performance.

1.1.1 Policy Development. The agency establishes an environmental policy followed by an environmental program that complements its overall mission strategy.

Management must take the lead in developing organizational goals and instilling the attitude that all organization members are responsible for implementing and improving environmental management measures, as well as develop criteria for evaluating how well overall goals are met. The environmental policy will be the statement that establishes commitments, goals, priorities, and attitudes. It incorporates the organization's mission (purpose), vision (what it plans to become), and core values (principles by which it operates). The environmental policy also addresses the requirements and concerns of stakeholders and how the environmental policy relates to other organizational policies.

1.1.2 System Integration. The agency integrates the environmental management system throughout its operations, including its funding and staffing requirements, and reaches out to other organizations.

Management should institutionalize the environmental program within organizational units at all levels and should take steps to measure the organization's performance by incorporating specific environmental performance criteria into managerial and employee performance evaluations.

Organizations that fulfill this principle demonstrate consistent high-level management commitment, integrate an environmental viewpoint into planning and decision-making

activities, and ensure the availability of adequate personnel and fiscal resources to meet organizational goals. This involves incorporating environmental performance into decision-making processes along with factors such as cost, efficiency, and productivity.

1.2 Environmental Stewardship and Sustainable Development. The agency strives to facilitate a culture of environmental stewardship and sustainable development.

''Environmental Stewardship'' refers to the concept that society should recognize the impacts of its activities on environmental conditions and should adopt practices that eliminate or reduce negative environmental impacts. The President's Council on Sustainable Development was established on June 29, 1993 by Executive Order 12852. The Council has adopted the definition of sustainable development as; ''meeting the needs of the present without compromising the ability of future generations to meet their own needs''.

An organization's commitment to environmental stewardship and sustainable development would be demonstrated through implementation of several of the CEMP Principles and their respective Performance Objectives. For example, by implementing pollution prevention and resource conservation measures (see Principle 2, Performance Objective 2.3), the agency can reduce its negative environmental impacts resulting directly from its facilities. In addition, by including the concepts of environmental protection and sustainability in its policies, the agency can help develop the culture of environmental stewardship and sustainable development not only within the agency but also to those parts of society which are affected by the agency's activities.

Principle 2: Compliance Assurance and Pollution Prevention.

The agency implements proactive programs that aggressively identify and address potential compliance problem areas and utilize pollution prevention approaches to correct deficiencies and improve environmental performance.

Performance Objectives

2.1 Compliance Assurance. The agency institutes support programs to ensure compliance with environmental regulations and encourages setting goals beyond compliance.

Implementation of an environmental management program should be a clear signal that non-compliance with regulations and established procedures is unacceptable and injurious to the operation and reputation of the organization. Satisfaction of this performance objective requires a clear and distinct compliance management program as a component of the agency's overall environmental management system.

An agency that fully incorporates the tenets of this principle demonstrates maintainable regulatory compliance and addresses the risk of non-compliance swiftly and efficiently. It also has established a proactive approach to compliance through tracking and early identification of regulatory trends and initiatives and maintains effective communications with both regulatory authorities and internally to coordinate responses to those initiatives. It also requires that contractors demonstrate their commitment to responsible environmental management and provides guidance to meet specified standards.

2.2 Emergency Preparedness. The agency develops and implements a program to address contingency planning and emergency response situations.

Emergency preparedness is not only required by law, it is good business. Properly maintained facilities and trained personnel will help to limit property damage, lost-time injuries, and process down time.

Commitment to this principle is demonstrated by the institution of formal emergency-response procedures (including appropriate training) and the appropriate links between health and safety programs (e.g., medical monitoring for Federal employees performing hazardous site work).

2.3 Pollution Prevention and Resource Conservation. The agency develops a program to address pollution prevention and resource conservation issues.

An organization committed to pollution prevention has a formal program describing procedures, strategies, and goals. In connection with the formal program, the most advanced organizations have implemented policy that encourages employees to actively identify and pursue pollution prevention and resource conservation measures, and instituted procedures to incorporate such measures into the formal program. Resource conservation practices would address the use by the agency of energy, water, and transportation resources, among others. Pollution prevention policies and practices should follow the environmental management hierarchy prescribed in the Pollution Prevention Act of 1990: (1) Source reduction; (2) recycling; (3) treatment; and (4) disposal.

Section 3–301(b) of Executive Order 12856 requires the head of each Federal agency to make a commitment to utilizing pollution prevention through source reduction, where practicable, as a primary means of achieving and maintaining compliance with all applicable Federal, State and local environmental requirements.

Principle 3: Enabling Systems

The agency develops and implements the necessary measures to enable personnel to perform their functions consistent with regulatory requirements, agency environmental policies and it's overall mission.

Performance Objectives

3.1 Training. The agency ensures that personnel are fully trained to carry out the environmental responsibilities of their positions.

Comprehensive training is crucial to the success of any enterprise. People need to know what they are expected to do and how they are expected to do it. An organization will be operating at the highest level when it has an established training program that provides instruction to all employees sufficient to perform the environmental aspects of their jobs, tracks training status and requirements, and offers refresher training on a periodic basis.

3.2 Structural Supports. The agency develops and implements procedures, standards, systems, programs, and objectives that enhance environmental performance and support positive achievement of organizational environmental and mission goals.

Clear procedures, standards, systems, programs, and short- and long-term objectives must be in place for the organization to fulfill its vision of environmental responsibility. A streamlined set of procedures, standards, systems, programs, and goals that describe and support the organization's commitment to responsible environmental management and further the organization's mission demonstrate conformance with this principle.

3.3 Information Management, Communication, Documentation. The agency develops and implements systems that encourage efficient management of environmentally-related information, communication, and documentation.

Information management, communication, and documentation are necessary elements of an effective environmental management program. The need for advanced information management capabilities has grown significantly to keep pace with the

volume of available information to be sifted, analyzed, and integrated. The ability to swiftly and efficiently digest data and respond to rapidly changing conditions can be key to the continued success of an organization.

Organizations adopting this principle have developed a sophisticated information gathering and dissemination system that supports tracking of performance through measurement and reporting. They also have an effective internal and external communication system that is used to keep the organization informed regarding issues of environmental concern and to maintain open and regular communication with regulatory authorities and the public. Those organizations operating at the highest level ensure that employees have access to necessary information and implement measures to encourage employees to voice concerns and suggestions.

Principle 4: Performance and Accountability

The agency develops measures to address employee environmental performance, and ensure full accountability of environmental functions.

Performance Objectives

4.1 Responsibility, Authority and Accountability. The agency ensures that personnel are assigned the necessary authority, accountability, and responsibilities to address environmental performance, and that employee input is solicited.

At all levels, those personnel designated as responsible for completing tasks must also receive the requisite authority to carry out those tasks, whether it be in requisitioning supplies or identifying the need for additional personnel. Similarly, employees must be held accountable for their environmental performance. Employee acceptance of accountability is improved when input is solicited. Encouraging employees to identify barriers to effective performance and to offer suggestions for improvement provides a feeling of teamwork and a sense that they control their own destiny, rather than having it imposed from above.

4.2 Performance Standards. The agency ensures that employee performance standards, efficiency ratings, or other accountability measures, are clearly defined to include environmental issues as appropriate, and that exceptional performance is recognized and rewarded.

Organizations that identify specific environmental performance measures (where appropriate), evaluate employee performance against those measures, and publicly recognize and reward employees for excellent environmental performance through a formal program demonstrate conformance with this principle.

Principle 5: Measurement and Improvement:

The agency develops and implements a program to assess progress toward meeting it's environmental goals and uses the results to improve environmental performance.

Performance Objectives

5.1 Evaluate Performance. The agency develops a program to assess environmental performance and analyze information resulting from those evaluations to identify areas in which performance is or is likely to become substandard.

Measurement of performance is necessary to understand how well the organization is meeting its stated goals. Businesses often measure their performance by such indicators as net profit, sales volume, or production. Two approaches to performance measurement are discussed below.

5.1.1 Gather and Analyze Data. The agency institutes a systematic program to periodically obtain information on environmental operations and evaluate environmental performance against legal requirements and stated objectives, and develops procedures to process the resulting information.

Managers should be expected to provide much of the necessary information on performance through routine activity reports that include environmental issues. Performance of organizations and individuals in comparison to accepted standards can also be accomplished through periodic environmental audits or other assessment activities.

The operation of a fully-functioning system of regular evaluation of environmental performance along with standard procedures to analyze and use information gathered during evaluations signal an organization's conformance with this principle.

5.1.2 Institute Benchmarking. The agency institutes a formal program to compare its environmental operations with other organizations and management standards, where appropriate.

''Benchmarking'' is a term often used for the comparison of one organization against others, particularly those that are considered to be operating at the highest level. The purpose of Benchmarking is twofold: first, the organization is able to see how it compares with those whose performance it wishes to emulate; second, it allows the organization to benefit from the experience of the peak-performers, whether it be in process or managerial practices.

Benchmarking against established management standards, such as the ISO 14000 series or the Responsible Care program developed by the Chemical Manufacturers Association (CMA), may be useful for those agencies with more mature environmental programs, particularly if the agencies' activities are such that their counterparts in the private sector would be difficult to find. However, it should be understood that the greater benefit is likely to result from direct comparison to an organization that is a recognized environmental leader in its field.

5.2 Continuous Improvement. The agency implements an approach toward continuous environmental improvement that includes preventive and corrective actions as well as searching out new opportunities for programmatic improvements.

Continuous improvement is approached through the use of performance measurement to determine which organizational aspects need to have more attention or resources focused upon them.

Continuous improvement may be demonstrated through the implementation of lessons learned and employee involvement programs that provide the opportunity to learn from past performance and incorporate constructive suggestions. In addition, the agency actively seeks comparison with and guidance from other organizations considered to be performing at the highest level.

IV. Responses From Federal Agencies and Departments

EPA is requesting Federal agencies to provide a brief written statement declaring the agency's support for the CEMP Principles along with a concise explanation of how the agency plans to implement the CEMP at the facility level. To implement the CEMP the agency may choose to employ voluntary environmental management standards developed by national or international consensus groups or by industry trade associations as long as the spirit of the CEMP is evidenced by those chosen standards. At this time, EPA is seeking agency level commitment to the CEMP.

EPA recognizes that many Federal agencies may have already begun development of environmental management systems or have chosen to implement a particular environmental

management standard at their facilities. EPA recommends that these agencies leverage the work that has already been accomplished, and perform some comparative or gap analysis between the existing environmental management system, program or standard and the CEMP to ensure that the principles of the CEMP are fully implemented. Therefore the CEMP can be implemented concurrently and not in addition to the work that is already being performed at the agency.

Dated: September 23, 1996.

Steven A. Herman,

Assistant Administrator for Enforcement and Compliance Assurance.

[FR Doc. 96–26451 Filed 10–15–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
October 16, 1996

Part IX

The President

Proclamation 6937—National Character Counts Week, 1996

Proclamation 6938—National School Lunch Week, 1996

Proclamation 6939—National Children's Day, 1996

Proclamation 6940—Columbus Day, 1996

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Presidential Documents

Title 3—

The President

Proclamation 6937 of October 11, 1996

National Character Counts Week, 1996

By the President of the United States of America

A Proclamation

One of our most important goals as a Nation is to make this a better world for all people. Millions around the globe look to America as a champion of justice, and we must always strive to encourage the good and denounce the bad.

This week, as a Nation, we celebrate the fact that ''Character Counts.'' Whether in civic activities or in our daily lives at work and at home, we all contribute regularly to our American community and our national purpose—our sense of who we are as a people. In the end, the character of our Nation is determined by the character of our citizens.

During this special week, we recognize that character is not a quality we are born with; we must learn it. This means we must ensure that it is taught, clearly and thoughtfully, to our youth. Individual character involves honoring and embracing certain core ethical values: honesty, respect, responsibility, hard work, fairness, caring, civic virtue, and citizenship. Americans must do everything possible to create a society in which these virtues are not only taught but also acted out in daily life so that our young people can witness firsthand their value and learn right from wrong.

My Administration has made this effort a top priority. Our Improving America's Schools Act promotes initiatives in character education, just as the Goals 2000: Educate America Act recognizes the crucial role of the family in nurturing strong values and encouraging children to embrace academic achievement. Our AmeriCorps national service program offers young people a practical means through which to demonstrate their beliefs in the civic virtues that traditionally have given our Nation much of its strength of character.

The family remains, of course, the core source of our values. Parents must teach their children from the earliest age, the difference between right and wrong. But we all must do our part. Teachers, religious leaders, and other early-childhood role models must display the highest standards of respect for themselves and others; young people must commit themselves to dealing nonviolently with the inevitable problems and difficulties they will encounter; and both public- and private-sector institutions must adopt corporate behavior that encourages individual character development.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 13 through 19, 1996, as National Character Counts Week. I call upon the people of the United States, Government officials, educators, and volunteers, to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and ninety-six, and

of the Independence of the United States of America the two hundred and twenty-first.

William J. Clinton

[FR Doc. 96–26770
Filed 10–15–96; 11:31 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6938 of October 11, 1996

National School Lunch Week, 1996

By the President of the United States of America

A Proclamation

This school year, schools across the country are serving more healthful and more appealing school meals, and school-children are learning to make food choices for a nutritious diet. The National School Lunch Program, which began in 1946, is celebrating its 50th anniversary year with historic changes that will reduce diet-related diseases and improve the health outlook for America's children.

The 1996–97 school year is the first year that school meals must meet the Dietary Guidelines for Americans under the new School Meals Initiative for Healthy Children. This initiative, created to help schools make necessary improvements, is providing nutrition education for children and training and technical assistance for school food-service professionals. Early reports from pilot communities tell us that we are getting results. Food-service professionals are seeing children eat more fruits and vegetables. With the help of dedicated teachers, they are becoming better educated about what their bodies need.

Improvements in school meals and nutrition education enhance the health of the 50 million children in the Nation's 94,000 schools—strengthening the safety net for poor children who rely on school meals as their primary source of daily nutrition. Wholesome meals improve our children's ability to learn today and brighten their health outlook for tomorrow.

These improvements are already a reality at the local level. Team Nutrition Schools—of which there are now more than 14,000—reach 8.1 million children. These schools are community focal points for change, leading the way in bringing together teachers, parents, health professionals, local businesses, and industry leaders to promote nutrition education and to work for more healthful school meals. These schools benefit from the resources made available through an innovative network of public-private partnerships. More than 200 organizations are part of an extensive support network that dramatically increases the impact and reach of a relatively small Federal investment.

Since President Truman signed the National School Lunch Act 50 years ago, the Federal Government and local school food-service professionals have worked in partnership to meet the nutritional needs of America's children. Now, together, they are ushering in an era of historic change and continuous improvement that promise a healthier future for all Americans.

In recognition of the contributions of the National School Lunch Program to the nutritional well-being of children, the Congress, by joint resolution of October 9, 1962 (Public Law No. 87–780), has designated the week beginning the second Sunday in October of each year as ''National School Lunch Week'' and has requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week beginning October 13, 1996, as National School Lunch Week. I call upon all Americans to recognize those

individuals whose efforts contribute to the success of the National School Lunch Program and to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.

William J. Clinton

[FR Doc. 96–26771
Filed 10–15–96; 11:32 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6939 of October 11, 1996

National Children's Day, 1996

By the President of the United States of America

A Proclamation

Our Nation benefits when every American child is truly valued and cherished. We have no greater responsibility or hope for our future than our children, and the promise of a better tomorrow depends upon the love, support, education, and encouragement that we give to each of them. It is up to all of us—parents and families, schools, churches, and community organizations—to join in the critical endeavor of putting the needs of our children first. Only when we reaffirm our commitment to our children's well-being can we truly say that we are prepared for the challenges that await us in the next century.

America is a country of many blessings—a rich land, a thriving democracy, a diverse and determined people. Our culture is built on faith in freedom, and opportunity, and on the spirit of community. In a Nation of such infinite promise, too many of our children face great obstacles in reaching their full potential, and it is imperative that we not turn our backs on them.

Because safety, health, a clean environment, quality education, and economic security are the keys to a brighter future, they are necessary investments in the healthy growth and development of our children. Through measures such as expanding Head Start and child care, preserving Medicaid, enhancing child protection, protecting the environment, and increasing educational opportunity for all students, my Administration has demonstrated its commitment to ensuring that every child has the tools to become a productive citizen.

As we work together in a spirit of community, let us seek to instill confidence, hope, pride, and self-esteem in our young people. Because today's children are tomorrow's leaders, educators, and parents, all of us—adults and children—forever will benefit from this commitment.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 13, 1996, as National Children's Day. I urge all Americans to express their love and appreciation, not only on this day but also on all days, for their children and all of the children of this Nation. I invite Federal officials, State and local governments, and particularly the American family, to join in observing this day with appropriate ceremonies and activities to honor our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.

William J. Clinton

[FR Doc. 96–26772
Filed 10–15–96; 11:33 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6940 of October 11, 1996

Columbus Day, 1996

By the President of the United States of America

A Proclamation

Throughout our history, America has been inspired by the courage and daring of Christopher Columbus. Like him, we are a people who dare to dream, to chart a bold course, and to surmount formidable obstacles to reach new horizons.

Columbus' arrival in North America not only confirmed his beliefs about our planet, but also initiated an epic struggle between the Old and New Worlds. Yet out of that triumphant voyage and the meeting of many peoples developed a Nation and a way of life vastly unlike those Columbus left behind.

The expedition that Columbus—an Italian supported by the Spanish Crown—began more than 500 years ago, continues today as we experience and celebrate the vibrant influences of varied civilizations, not only from Europe, but also from around the world. America is stronger because of this diversity, and the democracy we cherish flourishes in the great mosaic we have created since 1492. Americans of Italian and Spanish heritage can be particularly proud, not only of Columbus' achievements, but also of their own contributions to our country.

As we honor and remember Christopher Columbus, let us use his example as a beacon to help guide us into the 21st century. His life, his voyages, and—above all—his vision can inspire us as we prepare for the challenges that lie ahead. Let us remember that all of us, regardless of our origins, are important participants in that journey, and that our uncertainty about what lies over the horizon should not shake our faith that, together, we will succeed.

In recognition of Columbus' epic achievement, the Congress, by joint resolution of April 30, 1934 (48 Stat. 657), and an Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as ''Columbus Day.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 14, 1996, as Columbus Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.

William J. Clinton

[FR Doc. 96–26773
Filed 10–15–96; 11:34 am]
Billing code 3195–01–P

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REMINDERS

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.

RULES GOING INTO EFFECT TODAY

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Rural Utilities Service

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COMMERCE DEPARTMENT

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HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:

Polymers--

Poly(trimethyl hexamethylene terephthalamide); published 10-16-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:

HOME investment partnerships program; published 9-16-96

HOPE for homeownership of single family homes program (HOPE 3); published 9-16-96

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

California condors; published 10-16-96

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Immigration and Naturalization Service

Immigration:

Port Passenger Accelerated Service System (PORTPASS) Program; border inspection fee projects; published 10-16-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 9-11-96

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McDonnell Douglas; published 9-11-96

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Agricultural Marketing Service

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Animal and Plant Health Inspection Service

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Biological products and guidelines; definition; comments due by 10-22-96; published 8-23-96

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Forest Service

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AGRICULTURE DEPARTMENT

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Federal Agriculture Improvement and Reform Act of 1996:

Conservation provisions; implementation; public forums; comments due by 10-22-96; published 10-7-96

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Federal Agriculture Improvement and Reform Act of 1996:

Conservation provisions; implementation; public forums; comments due by 10-22-96; published 10-7-96

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Americans with Disabilities Act; implementation:

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Buildings and facilities; children's facilities; comments due by 10-21-96; published 7-22-96

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National Oceanic and Atmospheric Administration

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Atlantic sea scallop; comments due by 10-21-96; published 8-29-96

CONSUMER PRODUCT SAFETY COMMISSION

Hazardous substances:

Fireworks devices; fuse burn time; comments due by 10-21-96; published 8-7-96

DEFENSE DEPARTMENT

Acquisition regulations:

Carbon fiber; comments due by 10-21-96; published 8-21-96

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Federal Perkins loan, Federal work-study, Federal supplemental educational opportunity grant, and Federal Pell grant programs; comments due by 10-21-96; published 9-19-96

ENERGY DEPARTMENT

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Management and operating contracts--

Competition and extension contract reform initiative; implementation; comments due by 10-25-96; published 10-10-96

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Pesticides and ground water strategy; State management plan regulation; comments due by 10-24-96; published 6-26-96

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Enterprise Oversight Office

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INTERIOR DEPARTMENT

Fish and Wildlife Service

Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority); comments due by 10-25-96; published 8-7-96

JUSTICE DEPARTMENT

Immigration and Naturalization Service

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JUSTICE DEPARTMENT

Justice Programs Office

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TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

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